



FREEPORT CITY CODE

Chapter I – General Provisions

Section 100 – General Provisions.....	1
Section 105 – Definition of Terms	2
Section 110 – Legislative Process	4
Section 115 – Penalties.....	6

Chapter II – City Council

Section 200 – Council Rules and Procedures.....	7
Section 205 – Salaries of Elected Officials	10
Section 210 – City Elections	11
Section 215 – City Council Expectations.....	12

Chapter III – Administration of City Government

Section 300 – Disposition of Unclaimed Property	13
---	----

Chapter IV – Building, Housing and Construction Regulations

Section 400 – Building, Housing and Construction Regulations	14
--	----

Chapter V – Planning and Land Use Regulations

Section 500 – Zoning, Planning and Land Use	16
Section 505 – Urban and Rural Service Districts	84

Chapter VI – Public Health

Section 600 – Litter	86
Section 605 – Noxious Weeds.....	88

Chapter VII – Public Utilities

Section 700 – Franchises.....	90
Section 705 – Private Drains	91
Section 710 – Wastewater Service Charges	93
Section 715 – Water Service Charges	95

Chapter VIII – Streets, Alleys and Public Ways

Section 800 – Sidewalks.....	97
Section 805 – Street Building Numbering.....	99
Section 810 – Protection of Streets	101

Chapter IX – Public Safety

Section 900 – Civil Defense	103
Section 905 – Open Burning	104
Section 910 – Pets	105
Section 915 – Curfew	116
Section 920 – Outdoor Solid Fuel Furnaces.....	118
Section 925 – Fees for Emergency Protection Fire Service	119

<u>Chapter X – Licenses and Permits</u>	
Section 1000 – General Provisions.....	121
Section 1005 – Conduct of Peddlers, Solicitors and Transient Merchants.....	123
Section 1010 – License Fees	130
Section 1015 – Permit Procedures.....	131
 <u>Chapter XI – Public Parks</u>	
Section 1100 – Park Regulations.....	132
 <u>Chapter XII – Sale, Consumption and Display of Liquor and Beer</u>	
Section 1200 – Liquor and Beer.....	134
Section 1203 – Adult Establishments.....	139
 <u>Chapter XIII – Traffic, Motor Vehicles and Other Vehicles</u>	
Section 1300 – Highway Traffic Regulations	157
Section 1305 – Streets and Traffic	158
Section 1310 – Parking Regulations.....	160
Section 1315 – Sale of Unclaimed Motor Vehicles	162
Section 1320 – Driver’s License and Registration of Motor Vehicles	163
 <u>Chapter XIV – Economic Development Authority (EDA)</u>	
Section 1400 – Economic Development Authority Enabled.....	164
Section 1405 – Economic Development Authority Bylaws	168
 <u>Chapter XX – Misdemeanors</u>	
Section 2000 – Misdemeanors.....	173
Section 2010 – Public Nuisance.....	177
Section 2015 – Conduct In or Around School Buildings	182
Section 2020 – Nuisances; Shade Tree Disease Control.....	183
 <u>Chapter XXI – Subdivision Ordinance</u>	
Section 2100 – Subdivision Ordinance	188
 <u>Appendix</u>	
Fee Schedule - Appendix I (Ordinance 2012-004).....	193
Franchise to Albanytel (Ordinance 2006-001)	196
Franchise to US Cable (Ordinance 2004-03)	211
Franchise to Minnegasco, Inc. (Ordinance 1991-2)	226
Franchise to Leonard Communications (Ordinance 106).....	230
Franchise to Northern States Power Company (Ordinance 78).....	237

Section 100 – General Provisions

100.01 Title 1

100.03 Citation; Reference; Numbering System 1

100.05 Adoption by Reference 1

100.07 Official Statutes; Codes; Regulations; and Ordinances 1

100.09 Relation to Law 1

100.01 Title

This codification of the ordinances of the city of Freeport may be referred to and cited as: “The Freeport city code of 1995.”

100.03 Citation; Reference; Numbering System

For the purposes of internal references in code and citation by its users, the following terms are used:

- a) Chapter Roman numerals (e.g. chapter XI)
 - b) Section Arabic numerals (e.g. section 1100)
 - c) Subsection Arabic numerals for section and subsection separated by decimal (e.g., subsection 110.01)
 - d) Clause Arabic letters, lower case, in parentheses (e.g. (a))
- Reference or citations made in a form other than the foregoing will not defeat the intent of the council in enacting an ordinance or the intent of a user in citing the code when such intent is otherwise unclear. This code is to be construed liberally to carry out its intent and purposes.

100.05 Adoption by Reference

Statutes of administrative rules or regulations of the state of Minnesota, codes and ordinances adopted by reference in this code are adopted pursuant to authority granted by Minnesota Statutes, section 471.62. At least one copy of any item so adopted, but not less than the number of copies required by law, must be kept in the office of the city clerk-treasurer for use by the public.

100.07 Official Statutes; Codes; Regulations; and Ordinances

References in this code to Minnesota Statutes are to Minnesota Statutes 1994, Laws of Minnesota 1993, and Laws of Minnesota 1995, unless otherwise provided in this code. References in this code to rules and regulations of state agencies, codes, and ordinances of other municipalities are to those documents in effect on January 1, 1996, unless otherwise provided.

100.09 Relation to Law

It is the intent of the city council that the provisions of this code are the fullest exercise of the regulatory and other powers granted to it by state law. Where this code imposes a more stringent rule or standard of conduct than contained in similar provisions of state law, rule or regulation, it is the intent of the council that the provisions of this code prevail over the state law, rule or regulation to the extent permitted by law.

Section 105 – Definition of Terms

105.01 Definitions..... 1

105.03 Definitions; Statutory..... 1

105.05 Definitions; Internal..... 1

105.07 Interpretation; Conflicts 2

 Subd.1 Common usage 2

 Subd.2 Statutory rules 2

105.01 Definitions

For purposes of this code, the terms defined in this section have the meanings given them:

- 1. **City.** The City of Freeport and all the territory lying within the city’s boundaries over which it has jurisdiction.
- 2. **Code, this code, or code of ordinances.** The Freeport city code adopted by ordinance in 1996, as organized, compiled, and codified herein.
- 3. **Council.** The city council of the city of Freeport.
- 4. **Clerk-Treasurer.** The Freeport city clerk-treasurer.
- 5. **Owner.** In the case of personal property, a person, other than a lien holder, having the property in or title to personal property. In the case of real property, the term means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but not limited to, vendees under a contract for deed and mortgagors.
- 6. **Person.** An individual, firm, partnership, association or corporation; the term may extend and be applied to bodies corporate and politic, and to partnerships and other unincorporated associations. A reference to an elected or appointed city officer includes the duly authorized representative of that officer.
- 7. **Local non-profit/civic organization**
 - a. a non-profit corporation located in the city and qualified under Section 501c(3) of the Internal Revenue Code, or
 - b. a club as defined in MN Statutes, section 340A.101, subdivision 7, located in the city, or
 - c. the city, or
 - d. the Freeport Volunteer Fire Department Relief Association, or
 - e. independent school district 740, or
 - f. a volunteer committee organized for the sole purpose of sponsoring or assisting in the conduct of a civic celebration officially recognized by the city.

105.03 Definitions; Statutory

For purposes of this code, the terms defined in Minnesota Statutes, sections 645.44 and 645.45 have the meanings given them by those sections; and terms defined by statutes, rules or regulations, and ordinances adopted by reference have the meanings given them therein.

105.05 Definitions; Internal

Terms defined in other sections of this code have the meanings given them by those sections.

105.07 Interpretation; Conflicts

Subd.1 Common usage

Words and phrases used in this code are to be interpreted and understood in accordance with common and accepted usage, but any technical words or phrases or such others as have acquired a specific or peculiar meaning are to be interpreted and understood in accordance with such meaning.

Subd.2 Statutory rules

It is the intent of the city council that the rules and canons of construction, presumptions and miscellaneous provisions relating to statutory construction contained in Minnesota Statutes, chapter 645, apply to this code and governs its interpretation, and that all questions of meaning, construction and interpretation of this code are resolved by application of the rules contained in chapter 645. The provisions of Minnesota Statutes, chapter 645, are adopted by reference and are as much a part of this code as if fully set forth herein.

Section 110 – Legislative Procedure

110.01 Ordinance Enactment..... 1

110.03 Form of Amendments and New Ordinances..... 1

110.05 Head Notes..... 1

110.07 Integration of ordinances into code..... 1

 Subd.1 Duties of Clerk-Treasurer and Attorney 1

 Subd.2 Matters Omitted 1

 Subd.3 Errors 2

 Subd.4 Source Notes..... 2

110.09 Ordinance Records and Special Ordinances 2

110.11 Effective Date of Ordinances..... 2

110.01 Ordinance Enactment

Ordinances are enacted in accordance with the procedures set forth in law. Ordinances are to be integrated into this code in accordance with this section.

110.03 Form of Amendments and New Ordinances

An ordinance amending this code must specify the subsection, subdivision and clause to be amended. Language to be added must be underlined; language to be repealed must be stricken. An ordinance repealing the entire chapter, section, the test of an ordinance adding only new provisions to the code need not be underlined.

110.05 Head Notes

Chapter, section, subsection, subdivision headnotes, titles and cross references are not substantive parts of this code, but merely matters to expedite and simplify its use.

110.07 Integration of ordinances into code

Subd.1 Duties of Clerk-Treasurer and Attorney

The clerk-treasurer and city attorney must recommend to the council as system for integrating ordinances into the code in the most expeditious manner possible. They must recommend to the council rules consistent with this section for the preparation, editing and format ordinances to be presented to the council.

Subd.2 Matters Omitted

When an ordinance is integrated into this code, the following matters may be omitted:

- 1. Title
- 2. Enacting clause
- 3. Section numbers
- 4. Definition of terms identical to those contained in this code
- 5. Validation and repealing clauses

6. Validation signatures and dates
7. Punctuation and other matters not an integral part of the text of the ordinance
8. Penalty provisions.

Subd.3 Errors

When integrating ordinances into the code, the clerk-treasurer and city attorney may correct manifest grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, subsections, substitute dates for the words “the effective date of this ordinance”; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted, must maintain an up-to-date, indexed record of special ordinances

Subd.4 Source Notes

When an ordinance is integrated into this code, a source note must be added at the end of each new chapter, section, subsection, or subdivision indicating the ordinance number and section from which the changed language was derived.

110.09 Ordinance Records and Special Ordinances

The city clerk-treasurer is responsible for the safe and orderly keeping of ordinances in a manner directed by the council. Any ordinance not included in this code by the council direction is a special ordinance. The clerk-treasurer must maintain an up-to-date, indexed record of special ordinances. The council may direct that special ordinances and others be included in appendices to this code.

110.11 Effective Date of Ordinances

An ordinance is effective on the date of its publication or on a later date specified in the ordinance.

Section 115 - Penalties

115.01 General Rule 1

115.03 Exceptions..... 1

115.05 Applicability 1

115.07 Failure of Officers to Perform Duties 1

115.09 Misdemeanor Defined..... 1

115.01 General Rule

A person who violates a provision of this code is guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than \$700.00 or such other amount set by law and imprisonment for a term not to exceed 90 days, or both. Each act of violation and each day on which a violation occurs or continues is a separate violation. (See 115.03. - Exceptions)

115.03 Exceptions

Where a provision of this code or a statute adopted by reference herein sets a lesser penalty or a division period constituting a violation than set in subsection 115.01, the code provisions will prevail.

115.05 Applicability

It is the intention of the council that the penalty provided by this section or any other section of this code applies to an amendment of a section of this code whether or not such penalty is reenacted in the amendatory ordinance unless otherwise provided in the amendatory ordinance.

115.07 Failure of Officers to Perform Duties

The penalty imposed by this section does not apply to the failure of an officer or employee of the city to perform a duty imposed by this code unless a penalty is specifically provided for such failure.

115.09 Misdemeanor Defined

For purposes of this code, the term “misdemeanor” means an offense or crime that the council is empowered to punish with fine or imprisonment and a petty misdemeanor as defined by law.

Section 200 – Council Rules and Procedures

200.01 Regular Meetings	1
200.03 Quorum	1
200.05 Secretary	1
200.07 First Meeting	1
200.09 Presiding Officer	1
200.11 Motions Reduced To Writing	2
200.13 Signing and Publishing Of Ordinances	2
200.15 Special meetings	2
200.17 Agenda	2
200.19 Addressing Council	3
200.21 Decorum	3

200.01 Regular Meetings

Regular meetings of the council are held on the last Tuesday of each month in the council chambers of city hall at 7pm unless otherwise specified by council resolution. Meetings may be adjourned from time to time to a specified date or subject to the call of the mayor. Meetings of the council must be open to the public. A meeting falling on a legal holiday is held the preceding Tuesday.

200.03 Quorum

A majority of council members elected constitutes a quorum.

200.05 Secretary

The city clerk-treasurer is the secretary of the council.

200.07 First Meeting

At the first regular meeting of the council in each year, the council must 1) designate an official newspaper; 2) designate depositories for official funds; and 3) appoint committees as it deems necessary.

200.09 Presiding Officer

The mayor presides at the meetings of the council (during the absence of the mayor, the council must choose from its members an acting mayor). The presiding officer must preserve order and decorum, decide questions of order, and conduct meetings in accordance with these rules. To help govern meetings, the city council relies upon the provisions of Roberts Rules of Order (Newly Revised Edition) except where otherwise provided by law or by this chapter. The council may make and change its own rules from time to time by resolution duly adopted and any such changes supersede Roberts Rules of Order (Newly Revised Edition). The presiding officer may speak on any question being considered, and has the rights, privileges, and duties of any other member of the council.

200.11 Motions Reduced To Writing

A motion must be reduced to writing at the request of any member present. Ordinances and resolutions must be presented in writing and read in full before a vote is taken thereon unless the reading is dispensed with by unanimous consent.

200.13 Signing and Publishing Of Ordinances

Ordinances must be:

1. signed by the mayor;
2. attested by the clerk-treasurer;
3. published after its passage by the council; and
4. recorded by the clerk-treasurer in a properly indexed book kept for the purpose.

200.15 Special Meetings

Special meetings of the council may be called by the mayor or by any other two members of the council. The call is made by filing a written statement with the clerk-treasurer containing:

1. the names and positions of the person or persons calling the meeting;
2. the time and place of the special meeting; and
3. a request asking the clerk-treasurer to give the council members proper notice.

The clerk-treasurer must then mail, at least one day before the meeting, notice to all the council members stating the time and place of the meeting. Special meetings will be held without such notice when all members of the council are present in person, or when the absent members have consented in writing to the holding of the meeting. A special meeting attended by all members of the council is to be conducted in the same manner as a regular meeting for the purpose of transacting business.

The clerk-treasurer must also post written notice of the date, time, place and purpose of the special meeting on the city's principal bulletin board at least three (3) days before the meeting. A principal bulletin board must be located in a place reasonably accessible to the public. If the city does not have a principal bulletin board, the notice must be posted on the door of its usual meeting room.

200.17 Agenda

An agenda of business to come before the council must be prepared by the clerk-treasurer by the Thursday immediately preceding a regular city council meeting. The clerk-treasurer must furnish each member of the council with a copy of the agenda prior to the council meeting and as far in advance of the meeting as time for preparation will permit. A person desiring to be heard by the council must make the intention known to the clerk-treasurer of the substance of the matter to be presented so that it can be included in the agenda. Matters that have not been placed on the agenda will not be considered by the council unless the council is satisfied that the omission of the item from the printed agenda was inadvertent, or unless the matter is of such urgency that the council, by unanimous vote, suspends the rules for the consideration of the matter.

200.19 Addressing Council

A person addressing the council is limited to two (2) minutes, unless further time is granted by a majority vote of the council. Remarks must be addressed to the council as a body and not to any member thereof. A person addressing the city council must first state their full name and address.

200.21 Decorum

Meetings must be conducted in an orderly manner and proper decorum must be maintained throughout the meetings. A person making personal, impertinent or slanderous remarks, or who becomes boisterous while addressing the council, may be barred from further audience before the council by presiding officer unless permission to continue be granted by a majority vote of the council.

Section 205 – Salaries of Elected Officials

205.01 – Mayor Salary..... 1

205.02 – Council Member Salary 1

205.03 – Workers’ Compensation 1

205.01 – Mayor Salary

The salary of the mayor is \$95.00 for each regular council meeting attended and an additional \$50.00 for each special or other approved council meeting (other than a council meeting), training, or informal seminal attended. Salary is paid quarterly.

205.02 – Council Member Salary

The salary of each member of the council is \$65.00 for each regular council meeting attended and an additional \$50.00 for each special or other approved council meeting (other than a council meeting), training, or informal seminal attended. Salary is paid quarterly.

205.03 – Workers’ Compensation

The mayor and council members, elected or appointed to an unexpired term, are covered by the city’s workers’ compensation insurance.

Section 210 – City Elections

210.01 – General 1

210.03 – Election Dates 1

210.05 – Filing of Office 1

210.01 – General

Elections in the city are conducted in accordance with the general laws of the state of Minnesota.

210.03 – Election Dates

General elections are held on the first Tuesday after the first Monday in November in even numbered years. The council may set the date for a special or primary election by resolution.

210.05 – Filing of Office

The council must by resolution fix the dates within which candidates for municipal office must file in any special municipal election (primary or general election filing dates are provided by law).

Section 215 – City Council Expectations

215.01 Council training	1
Subd. 1 - Mayor	1
Subd. 2 - Council members.....	1

215.01 Council training

Subd.1 Mayor

A newly elected Mayor must attend the League of Minnesota Cities’ newly elected officials training in the first year of the term of office. A re-elected Mayor must attend the League of Minnesota Cities’ experienced officials training every four (4) years. In the event of an appointed Mayor, it is of the discretion of City Council in determining training.

Subd.2 Council Members

A newly elected Council member must attend the League of Minnesota Cities’ newly elected officials training in the first year of the term of office. A re-elected Council member must attend the League of Minnesota Cities’ experienced officials training in the first year of the term of office. In the event of an appointed Council member, it is of the discretion of City Council in determining training.

Section 300 – Disposition of Unclaimed Property

300.01 Unclaimed property; purpose and statutory authority 1

300.03 Method of disposition 1

300.05 Property having insubstantial value 1

300.09 Items which may be destroyed..... 1

300.09 Disposition of proceeds..... 1

300.01 Unclaimed property; purpose and statutory authority

This section has been enacted to provide for the custody and disposal of property other than motor vehicles coming into the possession of the city in the course of municipal operations and remaining unclaimed by the owner. This section has been adopted pursuant to provisions of Minnesota Statutes, section 471.195.

300.03 Method of disposition

Property that has come into the possession of the city and has remained unclaimed by its owner for a period of six months or more may be disposed of by the city by sale to the highest bidder at public auction or sale. The public auction or sale is conducted under the direction of the city clerk-treasurer, following published notice in the official newspaper at least ten days in advance of the sale.

300.05 Property having insubstantial value

Property having no substantial value may be discarded or given away by the city, but a list of such items so disposed of must be retained in the files of the city for at least six years.

300.09 Items which may be destroyed

Items of personal property having nuisance potential, such as firearms, dangerous weapons, liquor and narcotics may be destroyed upon order of the city clerk-treasurer. A list of items so destroyed must be maintained for a period of at least six years.

300.09 Disposition of proceeds

The proceeds of the sale must be deposited in the general fund of the city, subject to the right of the former owner to payment of the sale price from such fund upon application and satisfactory proof of ownership within six months of the sale.

Section 400 – Building, Housing, and Construction Regulations

400.01 Application of State Building Code	1
Subd.1 Codes Adopted by Reference	1
Subd.2 Application, Administration and Enforcement	1
Subd.3 Permits and Fees	1
Subd.4 Violations and Penalties	2
Subd.5 Building Code Optional Chapters	2
Subd.6 Compliance	2
Subd.7 Permits and Fees	2
Subd.8 Notice and Appeal	2
Subd.9 Violations and Penalties	2
Subd.10 Sunset	2
400.03 Numbering Of Houses and Buildings	2
Subd.1 Numbers Required	2
Subd.2 Duties of Inspector and Enforcement	2

400.01 Application of State Building Code

As permitted by Minnesota Statutes, section 16B.73, the state building code, except those requirements of the building code applicable to handicapped persons, do not apply in the city.

Subd.1 Codes Adopted by Reference

1. The Minnesota State Building Code, pursuant to Minnesota Statutes, 16B.59 to 16B.75, includes all of the referenced amendments, rules and regulations and is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.
2. The Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, Sections 326B.31 to 326B.399. The Minnesota Electrical Act is hereby incorporated into this ordinance as if fully set out herein. The Minnesota State Building Code incorporates by reference the National Electrical Code pursuant to Minn. R. 1315.0020. All such codes incorporated herein by reference constitute the electrical code of the City of Freeport.

Subd.2 Application, Administration and Enforcement

The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, subdivision 1, when so established by this ordinance. The code enforcement agency of this municipality is called the City of Freeport. This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minnesota Statutes, 16B.65) subdivision 1. The City of Freeport hereby provides for the inspection of all electrical installations, pursuant to Minn. Stat. §326B.36 subd.6.

Subd.3 Permits and Fees

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee

schedule adopted by the municipality. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes, 16B.70.

Subd.4 Violations and Penalties

A violation of the code is a misdemeanor (Minnesota Statutes, 16B.69).

Subd.5 Building Code Optional Chapters

The Minnesota State Building Code, established pursuant to Minnesota Statutes, 16B.59 to 16B.75 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

Subd.6 Compliance

All electrical installations shall comply with the requirements of the electrical code of the City of Freeport and this ordinance.

Subd.7 Permits and Fees

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes 326B.37. Any inspection or handling fees will be payable to the City of Freeport.

Subd.8 Notice and Appeal

All notices of violations and orders issued under this ordinance shall be in conformance with Minn. Stat. §326B.36, subd.4.

Subd.9 Violations and Penalties

A violation of the Minnesota Electrical Act is a misdemeanor. (M.S. 326B.082, subd.16).

Subd.10 Sunset

This ordinance shall be revoked without further action of the city council once the Department of Labor and Industry is funded for the 2011 fiscal year by legislative enactment of a state budget.

400.03 Numbering Of Houses and Buildings

Subd.1 Numbers Required

The owner and each and every occupant of a house or commercial building in the city must place on the front of each such house or commercial building, suitable house or building numbers, large enough to read from the street upon which the house or commercial building is located. The buildings must be numbered in accordance with the instructions of the city clerk-treasurer in accordance with section 805.

Subd.2 Duties of Inspector and Enforcement

The clerk-treasurer must enforce this section. The clerk-treasurer must give the owner or occupant of any house or commercial building that does not conform to this section 15 days written notice within which to comply with the terms of this subsection.

Section 500 – Zoning, Planning, and Land Use

500.01 Intent, purpose and application.....	5
Subd.1 Intent.....	5
500.01 Scope.....	5
500.03 Short Title	5
500.05 Application.....	5
500.07 General Provisions.....	5
Subd.1 Interpretation.....	5
Subd.2 Compatibility with Other Regulations.....	5
Subd.3 Relation to the Comprehensive Plan and/or Land Use Plan.....	6
Subd.4 Conformance to Ordinance.....	6
Subd.5 Reduction of Yards or Lots Not Permitted.....	6
Subd.6 Uses Not Provided For Within Zoning Districts	6
Subd.7 Application	6
Subd.8 Fees and Expenses	6
Subd.9 Building Permits	6
500.06 Rules and definitions.....	6
Subd.1 Rules	6
Subd.2 Definitions	7
500.13 Zoning map	15
500.15 Zoning upon annexation	16
500.17 Prohibitions in districts	16
Subd.1 Rules	16
500.19 District classifications.....	16
500.21 Zoning district boundaries	16
500.23 A, Agriculture/Rural Residence District.....	16
Subd.1 Purpose	16
Subd.2 Permitted Uses.....	17
Subd.3 Permitted Accessory Uses	17
Subd.4 Conditional Uses.....	17
Subd.5 Lot, Yard, and Area	17
500.25 R-1, Single and Two-Family Residence District	17
Subd.1 Intent.....	17
Subd.2 Permitted Uses.....	18
Subd.3 Permitted Accessory Uses	18
Subd.4 Conditional Uses.....	18
Subd.5 Interim Uses.....	19
Subd.6 Lot, Yard, Area and Height Requirements	19
500.27 R-2, Multi-Family Residential District	20
Subd.1 Intent.....	20
Subd.2 Permitted Uses.....	20
Subd.3 Permitted Accessory Uses	20
Subd.4 Conditional Uses.....	21
Subd.5 Lot Area, Width, Setbacks, and Height	21
500.29 C-1, Central and Neighborhood Commercial District	21
Subd.1 Intent.....	21

Subd.2 Permitted uses	22
Subd.3 Permitted Accessory Uses	22
Subd.4 Conditional Uses	22
Subd.5 Lot, Yard, Area and Height Requirements	23
500.31 C-2, Community Commercial District.....	23
Subd.1 Intent	23
Subd.2 Permitted Uses	23
Subd.3 Permitted Accessory Uses	23
Subd.4 Conditional Uses	24
Subd.5 Lot, Yard, Area and Height Requirements	24
500.33 I-1, General Industrial District.....	24
Subd.1 Intent	24
Subd.2 Permitted Uses	24
Subd.3 Permitted Accessory Uses	25
Subd.4 Conditional Uses.....	25
Subd.5 Lot, Yard Area and Height Requirements	25
500.35 Signs.....	25
Subd.1 Findings	25
Subd.2 Purpose and Intent	26
Subd.3 Effect.....	26
Subd.4 Definitions	26
Subd.5 Permit Required	28
Subd.6 Exceptions.....	29
Subd.7 General Requirements	29
Subd.8 Signs in Commercial Districts	30
Subd.9 Signs in Industrial Districts	31
Subd.10 Signs in Residential Districts.....	31
Subd.11 Off-Premise Signs.....	31
Subd.12 Non-Conforming Signs.....	31
Subd.13 Substitution Clause	32
500.37 Shoreland Overlay District	32
Subd.1 Intent	32
Subd.2 Shoreland Management Classification	32
Subd.3 Shoreland Overlay District	32
Subd.4 Lots of Record	33
Subd.5 Shoreland Alterations	33
Subd.6 Subdivision Provisions	33
Subd.7 Administration	34
500.39 General requirements	34
500.43 Off-Street Parking	34
Subd.1 Purpose	34
Subd.2 Intent	34
Subd.3 Permit Required	34
Subd.4 Parking Lot Dimensions	35
Subd.5 General Requirements	35
Subd.6 Number of Parking Spaces Required.....	35
Subd.7 Parking Lot Design Standards	36
500.44 Off-street loading	37

Subd.1 Loading Spaces Required	37
Subd.2 Required Screening	37
500.45 Fencing, screening, and landscaping	37
Subd.1 Fencing	37
Subd.2 Screening	40
Subd.3 Vegetation.....	40
500.47 Dwelling unit restrictions.....	40
Subd.1 Basement.....	40
Subd.2 Prohibited Living Quarters	40
Subd.3 One Principal Structure per Lot.....	40
500.475 Outdoor storage.....	40
Subd.1 Residential Uses.....	40
Subd.2 Commercial/Industrial Uses	41
Subd.3 Refuse and Waste	41
500.48 Accessory structures	42
Subd.1 General Standards.....	42
Subd.2 Setbacks	43
Subd.3 Maximum Height.....	43
500.485 Home occupants.....	43
Subd.1 General Standards.....	43
Subd.2 Home Occupations Requiring a Conditional Use Permit	44
Subd.3 Prohibited Home Occupations.....	44
500.49 General performance standards.....	44
Subd.1 Sewers.....	44
Subd.2 Lighting.....	44
Subd.3 Smoke	45
Subd.4 Dust and Other Particular Matter.....	45
Subd.5 Odor	45
Subd.6 Noise	45
500.50 Building Design Standards	45
Subd.1 – Metal Roofing.....	45
500.51 Height and yard exceptions.....	45
Subd.1 Structures	45
Subd.2 Attached Structures.....	46
Subd.3 Private Driveway and Sidewalks	46
500.53 Non-Conforming Uses	46
Subd.1 Purpose and Intent	46
Subd.2 Definitions	46
Subd.3 Standards.....	47
Subd.4 Burden Of Proof	50
500.55 Planned unit development.....	50
Subd.1 Purpose and Intent	50
Subd.2 Conditional Use Permit Required.....	50
Subd.3 Subdivision Regulations	50
Subd.4 Permitted Uses.....	51
Subd.5 Lot, Yard, Area, and Height Requirement.....	51
Subd.6 Property Control	51
Subd.7 General Development Provisions	51

Subd.8 Declaration.....	52
Subd.9 PUD Application and Procedure	52
Subd.10 Review and Evaluation Criteria.....	54
Subd.11 City Council Findings.....	54
Subd.12 General PUD Regulations.....	55
Subd.13 Administrative Procedure	55
Subd.14 Property Control	56
500.63 Conditional Use Permits	56
Subd.1 Purpose	56
Subd.2 Scope.....	56
Subd.3 Review Procedure.....	57
Subd.4 Criteria for Review	57
Subd.5 Conditional Approval	57
Subd.6 Revocation of Conditional Use Permits	57
500.635 Interim use permits	57
Subd.1 Purpose	57
Subd.2 Scope.....	58
Subd.3 Review Procedure.....	58
Subd.4 Criteria for Review	58
Subd.5 Conditional Approval	58
Subd.6 Revocation of Interim Use Permits.....	58
500.64 Board of zoning appeal/adjustment; variances	59
Subd.1 Creation and Membership.....	59
Subd.3 Review Procedure.....	59
Subd.4 Appeals	59
Subd.5 Revocation of Variance	59
500.65 Text Amendment and Rezoning	60
Subd.1 Purpose	60
Subd.2 Amendment Initiation.....	60
Subd.3 Application and Procedure	60
Subd.5 Approvals Required.....	60
Subd.6 Effective Date	60
500.66 Application Review Procedures.....	61
Subd.1 Applications for City Council Review	61
Subd.2 Applications for Administrative Review	62
Subd.3 Zoning Review.....	63
Subd.4 Site Plan Review.....	63
500.69 Enforcement.....	65
Subd.1 Enforcement Agent.....	65
Subd.2 Enforcement Process	65
500.70 Fees	66
Subd.1 Payment Required.....	66
Subd.2 Amount	66
500.71 Validity	67
500.72 Repeal of conflicting ordinances	67
500.73 Effective date	67

500.01 Intent, purpose and application.

Subd.1 Intent

This Section is enacted pursuant to the authority conferred by the State of Minnesota in Sections 462.351 to 462.364 for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare of the residents of this incorporated area of the city,
2. Protecting and preserving the physical character, social and economic stability of residential, commercial, industrial and other use areas,
3. Securing the most appropriate use of land,
4. Preventing the overcrowding of the land and undue congestion of population,
5. Providing adequate light, air and reasonable access,
6. Facilitating adequate and economical provision of transportation, water supply and sewage disposal,
7. Planning for location of schools, recreation facilities and other public requirements, and,
8. Providing for the protection of access to direct sunlight for solar energy systems.

500.01 Scope

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to or relocated and every use within a building or use accessory thereto, in the City of Freeport, shall be in conformity with the provisions of this Ordinance. An existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to non-conforming properties or uses.

500.03 Short Title

This Section or Chapter of the City Code is the Zoning Code of Freeport, Minnesota and will be referred to herein as “this Section”, “this Code”, “the Zoning Ordinance”, and/or “the/this Ordinance”. A particular subpart of this Section shall be referred to as a “Subsection”.

500.05 Application

This Code applies to all of the area within the corporate limits of the city.

500.07 General Provisions

Subd.1 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

Subd.2 Compatibility with Other Regulations

Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provision of this Ordinance shall be controlling. Where the provisions of

any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

Subd.3 Relation to the Comprehensive Plan and/or Land Use Plan

It is the policy of the City that the enforcement, amendment, and administration of this Chapter be accomplished consistent with the recommendations contained in the City Comprehensive Plan and/or the City Land Use Plan, as developed and amended from time to time by the City Council. The Council recognizes the City Comprehensive Plan and/or the Land Use Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Chapter 473, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

Subd.4 Conformance to Ordinance

No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered nor shall any building or land be used except for the purpose permitted in the district in which the building or land is located.

Subd.5 Reduction of Yards or Lots Not Permitted

No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance, and no lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard or other space for another use.

Subd.6 Uses Not Provided For Within Zoning Districts

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. The City Council or property owner, may, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the City.

Subd.7 Application

All applications required by this Ordinance shall be fully completed and filed in the City records.

Subd.8 Fees and Expenses

Any person filing a petition for an application required by this Ordinance shall pay a prescribed fee according to a fee schedule established by the City Council. All fees shall be set annually by Ordinance or Resolution of the City Council.

Subd.9 Building Permits

As required, no person shall erect, alter, or move any building or part thereof without first securing a building permit.

500.06 Rules and definitions

Subd.1 Rules

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word

"structure"; the word "lot" shall include the word "plot" and the word "shall" is mandatory and not discretionary.

Subd.2 Definitions

For the purpose of this Code, the terms defined in this Section have the meanings given them.

Accessory Use or Structure. A subordinate detached building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such main building or use.

Agriculture. The growing of soil crops in the customary manner on open tracts of land, the raising of animals or poultry, including incidental retail selling by the producer of the product raised on the premises, providing customer parking space is furnished off the public right-of-way.

Alley. A public thoroughfare less than thirty (30) feet in width which provides secondary access to the abutting property.

Amendment. Any modification of the Ordinance text or map. A map amendment shall be known as a rezoning.

Apartment. A part of the building consisting of a room or suite of rooms which is designed for, intended for or used as a residence for one family or an individual and is equipped with cooking facilities.

Apartment Building. Three (3) or more apartments grouped in one building sharing common hallways and building entry.

Appeal. An action brought by an applicant where it is alleged that there is an error in any order, request, decision or determination by the City Administrator in the enforcement of the Zoning Ordinance.

Automobile repair, major. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, frame work and major painting service.

Automobile repair, minor. Incidental repairs, replacement of parts and motor service to automobiles, but not including any operation specified under Automobile repair, major.

Automobile service station. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered to the public, the premises will be classified as a public garage. Automobile service stations shall not include the sale or storage of vehicles; shall not include premises offering major automobile repairs, automobile wrecking or detached car washes.

Bed and Breakfast. An owner-occupied single-family dwelling where lodging, in up to four guest rooms, and breakfast are provided to the traveling public by the resident owner for compensation.

Building. Any structure for the shelter, support or enclosure of persons, animals, or property of any kind.

Building Height. The vertical distance from the average of the highest and lowest point of that portion of a lot covered by a building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Line. An imaginary line on a development site corresponding with the series of points where an exterior building wall meets the grade of the Earth.

Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries.

City Council. The City Council of Freeport.

Commercial Recreational Uses. Uses including, miniature golf, waterslides, amusement centers, bowling alley, pool hall, dance hall, skating and similar uses

Conditional Use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Condominium. A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the City of Freeport City Code Chapter 5 Zoning, provisions of the Minnesota Condominium Act, Minnesota Statutes, Chapter 515, or the Uniform Condominium Act, Minnesota Statutes, Chapter 515A.

Contractor Operations. An area and/or building devoted to use by a business that contracts to supply materials or work in the building trade field.

Convenience Store. A retail establishment, which generally sells a limited range of food products, nonprescription drugs, candy and other perishable goods. This includes soda and similar beverage dispensing and food products, which can be heated and/or prepared onsite, and retailing of nonautomotive goods.

Convenience Store with Motor Fuel Sales. A convenience store as defined herein that also sells gasoline from pump islands.

Day Care Facility. Any State licensed facility, public or private, which provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and day services as defined by Minn. Stat. Section 245.782, Subd. 5.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above ground.

Drive-In Establishments. Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.

Dwelling. A building or portion thereof designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

Dwelling Unit. One or more rooms in a dwelling designed for occupancy by one family for living purposes and having separate permanently installed cooking and sanitary facilities.

Earth Sheltered. A building constructed so that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the building code standards are satisfied.

Essential Services. Erection, construction, alteration, or maintenance by public utilities or municipal departments of commissions, of underground or overhead gas, electrical, communication, steam or water transmissions, or distribution systems, including poles wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety, or general welfare.

Expansion, Enlargement, or Intensification. Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the City.

Fence. A partition, wall, hedge, or row(s) of continuous vegetative plantings that are erected as a dividing marker, visual, or physical barrier, or enclosure.

Fence, Permanent. A fence constructed of wood, rust-resistant chain link steel, prefabricated and rust resistant aluminum, prefabricated vinyl, landscape masonry units, landscape brick units, stone, or decorative concrete. If wooden material is used it shall be made of processed wood, i.e. cedar, green treated, brown treated, or resin (but not creosote) composite. For the purposes of this Ordinance trellises, arbors, pagodas, and the like shall not be considered a fence.

Fence, Natural Living. A divider or barrier comprised of living vegetative materials. The owner of the adjacent property may trim or prune parts of the living fence that extend onto their property.

Finance, Insurance and Real Estate. Establishments operating primarily in the fields of finance, insurance and real estate including, but not limited to, depository institutions, credit institutions, investment companies, security and commodity exchanges, insurance agents and brokers, real estate developers, buyers, agents and lessees.

Flood Plain. The areas adjoining a watercourse or lake which have been or hereafter may be covered by a regional flood.

Frontage. That part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

Garage, Private. An accessory building designed or used for the private (i.e. not commercial) storage of automobiles or trucks owned and used by the occupants of the building to which it is accessory.

Garage, Public. Any premises except those described as a private or community garage used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair, or kept for remuneration, hire or sale.

Glare. The effect produced by the intensity and direction of any artificial illumination sufficient to cause annoyance, discomfort, or temporary loss or impairment of vision.

Gross Floor Area. The sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls including basements.

Home Occupation. Home occupations are defined as and limited to all of the following:

1. Gainful occupations or professions engaged in by the occupant(s) of a dwelling;
2. Which are carried on within a dwelling unit or structure(s) accessory thereto; and,
3. Which are clearly incidental to the principal use of the property as a residential dwelling unit.

Hotel/Motel. Any building or portion thereof where lodging is offered to transient guests for compensation in which there are sleeping rooms, but not cooking facilities, within individual rooms or units.

Industry, Heavy. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Landscaped Buffer. A portion of a required setback between adjoining properties wherein the natural terrain is altered to provide an opaque screen. Alteration of the natural terrain, may include, but is not limited to the planting of trees, ornamental grass, shrubs, other ground cover, and/or the construction of a berm or fence. Where berming or fencing is employed trees vegetative landscaping shall accompany the berm or fence.

Lot. One unit of a recorded plat or subdivision ~~land~~ occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Code, having not less than a minimum area required by this Code for a building frontage on a street.

Lot Area. The area of a horizontal plane within the lot lines.

Lot, Corner. A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

Lot Coverage. The area or percentage of a lot's horizontal surface occupied by the combined sum of all structures.

Lot Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage/Through. A lot having its front and rear yards each abutting on a street, not including an alley. Both street lot lines are considered to be front lot lines for applying yard and parking requirements.

Lot, Interior. A lot other than a corner lot.

Lot Line. The property line bounding a lot.

Lot Line, Front. The lot line separating the lot from the street other than the alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

Lot Line, Rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot paralleled to and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot, Width. The shortest horizontal distance between the side lot lines measured at the building setback line.

Lot of Record. A lot or parcel for which a deed has been recorded in the office of the County Register of Deeds prior to the date of adoption of this Ordinance.

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts. A luminaire does not include a pole or other support.

Manufactured Home Park. Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

Mobile (Manufactured) Home. A factory-built structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be relocated as a structure or structures used for occupancy without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is

constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner.

Modular Home. A non-mobile housing unit that is fabricated at a factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one family dwelling.

Multiple-Family Dwelling. A dwelling containing three or more dwelling units designed with more than one dwelling unit connecting to a common corridor or entranceway.

Non-Conforming Use or Legal Non-Conformity. Any land use, structure, physical form of land development, lot of record or sign legally established before the effective date of this ordinance or subsequent amendment to it that would not be permitted by, or is not in full compliance with, the regulations of this ordinance. A non-conformity or non-conforming use is one of three types: non-conforming land use, non-conforming structure or non-conforming lot of record.

Non-Conforming Land Use. An activity using land, buildings, and/or structures for a purpose that was legally allowed when established but that is not currently allowed as a use in the zoning district in which it is located.

Non-Conforming Structure. A legal non-conformity other than a non-conforming land use that complied with ordinance standards at the time it was established but that does not currently conform to an ordinance standard such as height, setback, or size.

Non-Conforming Lot of Record. An existing base lot of record at the time of approval of this Ordinance that is non-conforming in terms of lot area or lot width or depth and that has not at any time been the site of a principal use/structure.

Nurseries or Greenhouses. A place where plants are grown for sale, transplanting or experimentation.

Nursing Home, Rest Home or Convalescent. A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

Office. A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

On-sale liquor establishment. Any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises. Typical on-sale uses include but are not limited to the following establishments: ballrooms, dance bars, piano bars, billiard and/or game parlors, nightclubs, or other private clubs. This definition shall not include standard restaurants as defined herein, or veterans clubs.

Ordinary High Water Level (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial, as determined by the Department of Natural

Resources. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

Personal Services. An establishment or place of business primarily engaged in providing individual services generally related to personal needs, such as a beauty salon, spa, tanning salon, tailor shop, or similar.

Person(s). Any individual, firm, partnership, limited liability company, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee or similar representative thereof.

Planned Unit Development. An integrated development involving two or more principal uses or structures, including but not specifically limited to single-family residential uses, multiple-family residential uses, offices, or commercial uses, or any combination thereof, and similar such uses or combinations.

Premises. A lot or plot with the required front, side and rear yards for a dwelling or other use allowed under this Ordinance.

Principal Use or Structure. The main building on a lot in which the intended allowable use of the property is conducted and any additions thereof.

Restaurant, Fast Food. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption:

1. Within restaurant building;
2. Within a motor vehicle parked on the premises; or
3. Off the premises as carry-out orders; and whose principal method of operation includes the following characteristics:
 - a. Food and/or beverages are usually packaged prior to sale and are served in edible containers or in paper, plastic, or other disposable containers;
 - b. The customer is not served food at a table by an employee, but receives it at a counter window, or similar facility and carries it to another location on or off the premises for consumption.

Restaurant, Standard. An establishment whose principal business is the sale of food and beverages, including alcohol, to customers in a ready-to-consume state, but not including an on-sale liquor establishment, and whose method of operation includes one or both of the following characteristics:

1. Customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
2. A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

Retail Trade. Establishments engaged in selling merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods. Retail trade includes the selling and renting of goods and products including but not limited to apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys, and sporting goods.

Right-of-way. The area between property lines of a road, street, alley, pedestrian way or easement or other street.

Semipublic Use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, top of a bluff, road, highway, property line, or other facility.

Sewage Treatment System. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subsection 500.49 of this Chapter.

Sewer System. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Single-Family Dwelling. A detached dwelling designed exclusively for occupancy by one family.

Story. That portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is not floor above it, the space between the floor and the ceiling next above it.

Street. A public way for vehicular traffic, whether designated as a street, highway, arterial, arterial parkway, throughway, road, avenue, lane, place, or however otherwise designated.

Street, Cul-De-Sac. A street with a single common ingress and egress and with a turn-around at the end.

Street, Dead-End. A local street open at one end only and without a special provision for vehicles turning around.

Street Frontage. That portion of a parcel of land abutting one or more streets. An interior lot has one street frontage and a corner lot two such frontages.

Street, Loop. A short, independent street that usually terminates along the same collector street of its origin.

Street, Through. A major collector or arterial street that serves more than one neighborhood, or carries traffic between neighborhoods, or streets that extend continuously between other major streets in the community. Through streets shall not include cul-de-sac streets, dead-end streets or loop streets.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Structural Alteration. Any change or addition to the supporting members of a building such as bearing walls, columns, beams or girders.

Townhouse. A single structure consisting of three or more dwelling units having the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

Twin Home. A single structure consisting of two dwelling units, each designed for occupancy by one family with separate entrances connected only by a party wall with no openings.

Two-Family Dwelling. A dwelling with two units designed with a common corridor or entryway exclusively for occupancy by two families living independently of each other.

Use. The purpose for which land or premises of the building thereon is designated, arranged, or intended, or for which it may be occupied or maintained.

Variance. A modification or variation of the provisions of this chapter, as applied to a specific piece of property.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Wholesale Trade. Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Yard. An open space between a building and any lot line which is open to the sky obstructed by any permanent or temporary uses or structures.

Yard, Front. A yard extending across the full width of the lot and lying between the front lot line and the front building line.

Yard, Rear. A yard extending across the width of the lot and lying between the rear lot line and the nearest line of the principal building.

Yard, Side. A yard extending from the front lot line to the rear lot line and lying between the side lot line and nearest line of a building.

Zoning Administrator. The City Official appointed by the City Council from time to time to administer the Zoning Ordinance, to include monitoring compliance with the Ordinance, maintaining the City of Freeport Zoning Map, and administering the application process for building permits, conditional use permits and variance requests and all other administrative matters pertaining to the Zoning Ordinance.

500.13 Zoning map

For the purpose of this Code, the City is divided into use districts as shown on a map entitled, “Official Zoning Map”. The Clerk-Treasurer and/or his/her designee is directed to prepare and maintain in the City offices a map accurately delineating the boundaries of the various zoning districts and the zoning district classification of real property in the City. The Official Zoning Map and all notations, references,

and other information shown thereon are incorporated in this Code and are as much a part of this Code as if fully set forth herein.

500.15 Zoning upon annexation

Land annexed to the city in the future is to be placed in the “A” Agricultural/Rural Residence District until placed into another district by action of the City Council.

500.17 Prohibitions in districts

Subd.1 Rules

1. Except for non-conforming uses, in each district land and structures may be used only for the purposes listed by this Code as permitted in the district. In each district, a building erected or structurally altered must
2. Be provided with the yards specified,
3. Be on a lot of the area and width specified, and
4. May not exceed the height specified in this Code for the district.
5. Open space or lots required for building may not, during the existence of that building, be occupied by or counted as open space for another building.

500.19 District classifications

The following district classifications are established and continued within the City of Freeport:

1. “A” Agricultural/Rural Residence
2. “R-1” Single and Two-Family Residential District
3. “R-2” Multiple Family Residential District
4. “C-1” Central and Neighborhood Commercial District
5. “C-2” Highway Commercial District
6. “I-1” General Industrial District
7. “S” Shore Land Overlay District

500.21 Zoning district boundaries

The boundaries of districts are shown on the zoning district map and are the center lines of streets; the center lines of alleys; the rear lot lines where there are no alleys; the side lines of recorded lots or designated distances where land is un-platted. Where uncertainty exists as to the exact location of a boundary line, the location of such line is to be determined by the City Council.

500.23 A, Agriculture/Rural Residence District

Subd.1 Purpose

The agricultural/rural residence district is established for the purpose of accommodating large lot residential and agricultural development in areas which are transitioning from rural to urban densities. This District allows space for both very low-density urban (with municipal utilities) residential uses and agricultural/farming/hobby farm operations in areas that have not yet developed to urban densities but are expected to do so in the future.

Subd.2 Permitted Uses

1. Agriculture, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control standards, but not including commercial feed lots or similar commercial operations.
2. Single-family dwellings.
3. Public parks, recreational areas, wildlife areas, and game refuges.
4. Nurseries and tree farms.
5. Essential services.

Subd.3 Permitted Accessory Uses

1. Operation and storage of vehicles, machinery, and equipment which is incidental to permitted or conditional uses allowed in this district, subject to the standards contained in Subsection 500.475 of this Section.
2. Boarding or renting of rooms to not more than two persons.
3. Living quarters for persons employed on the premises.
4. Home occupations, subject to the standards contained in Subsection 500.485 of this Section.
5. Signs as regulated in the R-1 Single and Two Family Residential District.
6. Roadside stands for the sale of agricultural products.

Subd.4 Conditional Uses

The following uses require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

1. Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community.
2. Commercial outdoor recreational areas including golf courses, club houses, swimming pools, and similar facilities.
3. Processing and packaging of agricultural products, including livestock, cold storage plants, livestock farming, and livestock feed lots and sales yards, subject to all applicable pollution control standards.
4. Kennels and animal hospitals, fur farming, stables and riding academies provided that the property containing such use is adequate and is adequately separated from residential, commercial and industrial districts.
5. Churches, schools, and similar uses.
6. Uses deemed by the City Council to be similar to those listed in the zoning district.

Subd.5 Lot, Yard, and Area

Lot Area – Existing Lots on 6/1/14	Lot Area - Lots Created After 6/1/14	Lot Width	Side Yard	Front Yard	Rear Yard
10 Acres	40 acres	250 ft.	60 ft.	100 ft.	100 ft.

500.25 R-1, Single and Two-Family Residence District

Subd.1 Intent

It is the intent of this district to permit the development of single-family and two-family dwellings in the City where adequate municipal utilities exist or are to be extended, to provide for reasonable standards

for such development, to avoid overcrowding, and to prohibit the use of the land which would be incompatible with or detrimental to the essential residential character of the district.

Subd.2 Permitted Uses

1. Single and two-family dwellings.
2. Attached single family dwellings, not exceeding four units per structure.
3. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons; licensed day care facility serving twelve (12) or fewer persons; group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children, except that residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be permitted.
4. Essential services.
5. Solar energy.
6. Existing farming operations.
7. Limit to two (2) cords of exposed wood.
8. Manufactured homes, if such manufactured houses comply with the following conditions:
 - a. The house may not have ground floor space of less than 800 square feet or a width of less than 20 feet at its narrowest point.
 - b. The house must be placed on a permanent foundation which complies with the State Building Code and which are solid for the complete circumference of the house.
 - i. The house must have exterior siding of conventional exterior dwelling-type materials. Metal siding must have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.
 - ii. The house must be built in compliance with Minnesota State Building Code.
 - iii. Manufactured houses which vary from these requirements may be permitted in this zone when authorized by the Board of Adjustment. Before a variance is granted, the Board, must find that the value of the adjacent property will not be diminished by the placement of the manufactured house. The variance must state any conditions which may be set by the Board in granting the variance.

Subd.3 Permitted Accessory Uses

1. Private garages and parking spaces for passenger cars, trucks, recreational vehicles and equipment.
2. Home occupations, as provided under Subsection 500.485 of this Section.
3. Detached accessory structures, as provided under Subsection 500.48 of this Section.
4. Signs associated with home occupations, as provided under Subsection 500.35 of this Section.

Subd.4 Conditional Uses

1. Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided any structure is not within 30 feet of any lot line.
2. Residential planned unit developments regulated by Subsection 500.55 of this Code.
3. Public or semi-public recreational buildings, community centers, day-care centers, libraries, museums, memorial buildings, senior citizens' centers, and bed and breakfast housing, provided any structure is not within 30 feet of any lot line.
4. Churches and schools, provided any structure is not within 30 feet of any lot line.

5. Day care facilities and nursery schools, provided not less than 30 square feet of outside play space per pupil is available.
6. Nursing homes, rest homes, and retirement homes, provided the buildings are not less than 50 feet from a lot line abutting an R-1 single and two-family residential district.
7. Manufactured home parks, provided they shall:
 - a. Be served by public sewer and water systems.
 - b. Have any private roadways installed to City specifications as determined by the City Council.
 - c. State licensed residential facility serving from seven (7) through sixteen (16) persons or a licensed day care facility serving from thirteen (13) through sixteen (16) persons, providing:
 - i. The conditional use permit requirements of this Ordinance are considered and satisfied.
 - ii. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The City Clerk or designee shall approve the appropriateness of the landscaped buffer yard.
8. The use complies with off-street parking requirements set forth in this Ordinance.

Subd.5 Interim Uses

Off-premise commercial site improvements adjacent to commercially zoned property including fences, driveways, retaining walls, and parking areas. A principal use or structure is not required.

Subd.6 Lot, Yard, Area and Height Requirements

Primary Use

	Lot Minimum		Setbacks (ft.)			Maximum
	Area Sq. feet	Width (ft.)	Front	Side	Rear	Height
Single and two-family existing lots (8/30/72)	5,000	50 or less	30	6	10	2½ stories or 30'
Existing lots (8/30/72)	5,000	51 or more	30	10	10	2½ stories or 30'
New lots	15,000	75	30	10	10	2½ stories or 30'

* Subsection 500.25, Subd. 6 (C)-(K) apply

Accessory Use

	Lot Minimum		Setbacks (ft.)			Maximum
	Area Sq. feet	Width (ft.)	Front	Side	Rear	Height (ft.)
Single and two-family existing lots (8/30/72)	5,000	50 or less	Not allowed	6	5, unless rear loading then 10 ft.	18 feet
Existing lots (8/30/72)	5,000	51 or more	Not allowed	10	5, unless rear loading then 10 ft.	18 feet

	Lot Minimum		Setbacks (ft.)			Maximum
	Area Sq. feet	Width (ft.)	Front	Side	Rear	Height (ft.)
New lots	15,000	75	Not allowed	10	5, unless rear loading then 10 ft.	18 feet

1. Property setbacks are from lot stakes to building overhang.
2. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback must be the average of the adjacent structures.
3. On corner lot, the width of the side yard setback on the street side may not be less than fifteen (15) feet.
4. Each attached single family dwelling must meet the lot, yard, area, and height requirements of this subdivision, with the exception that: (1) the side yard setback requirement is waived for the shared party wall, and (2) the lot area requirement is reduced to 7,500 square feet per dwelling unit. Single family attached dwellings sharing a party wall shall not house more than two dwelling units. Each attached single family dwelling unit must have separate and individual front and rear entrances, and separate and individual water and wastewater service.
5. Church spires, water towers, and chimneys are exempt from height requirements.
6. Lot coverage for principal and accessory buildings may not exceed 35% of the lot area, except that lots of 7,500 square feet or less may have lot coverage of up to but not exceeding 45 percent.
7. Lots platted prior to this Code and not serviced by municipal water and wastewater will be considered as build-able at their current size. However, newly platted lots must be a minimum of ten acres when utilizing individual water and wastewater systems. All lots with access to city water and wastewater must utilize those services.
8. Each lot must have a minimum frontage on a street of 35 feet.
9. For non-conforming lots refer to Subsection 500.53.

500.27 R-2, Multi-Family Residential District

Subd.1 Intent

It is the intent of this district to provide for multiple-family dwelling unit structures and directly related complementary uses.

Subd.2 Permitted Uses

1. All permitted uses as allowed in an “R-1” Single and Two-Family Residential District.
2. Multiple-family dwelling units.
3. Boarding and rooming houses.
4. Nursing homes, retirement homes.
5. Private clubs and lodges not operating for profit.
6. Churches, places of worship.

Subd.3 Permitted Accessory Uses

1. All permitted accessory uses as allowed in an “R-1” Single and Two-Family Residential District and subject to applicable setback and height criteria set forth in Subsection 500.25, Subd.6.
2. Off-street loading and parking as provided under Subsection 500.43 of this Chapter.

Subd.4 Conditional Uses

The following uses will require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

1. All conditional uses, subject to the same provisions as allowed in the “R-1” Single and Two Family Residential District.
2. Townhouses and residential planned unit developments.
3. Clinics and other buildings for treatment of human beings contingent upon adequate parking being provided.
4. Motels and hotels when located on property having access to state or federal highways.

Subd.5 Lot Area, Width, Setbacks, and Height

1. Minimum Lot Area.
 - a. Single and two-family: as set forth in Subsection 500.25, Subdivision 6.
 - b. Town-houses: 7,000 square feet per lot.
 - c. Multiple-family: 16,000 square feet minimum up to eight units; each unit over eight shall provide an additional 2,000 square feet of lot area per unit.
2. The minimum lot width will be:
 - a. Single and two-family: as set forth in Subsection 500.25, Subdivision 6. Each lot must have a minimum frontage on a street of 35 feet.
 - b. Town-houses: 60 feet. Each dwelling must have a minimum frontage on a front street of 35 feet.
 - c. Multiple-family: 150 feet with a minimum of 75 feet fronting on a public right-of-way.
3. Front yard setback: 30 feet.
4. Side yard setback: 15 feet for each interior side yard; 25 feet for street side yard on corner lots. Multiple family structures shall provide an additional one-half (1/2) foot of setback per one (1) foot of height in excess of thirty-five (35) feet.
5. Rear yard setback: 40 feet.
6. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback will be the average of adjacent structures. If there is only one adjacent structure, the setback will be the average of the required setback and the setback of the adjacent structure. In no case will the front yard setback requirement exceed 30 feet.
7. Maximum structural coverage: Forty-five (45) percent.
8. Maximum height:
 - a. Single and two family dwellings and townhomes: two and one-half (2½) stories or thirty (30) feet.
 - b. Multiple family dwellings: four stories or fifty (50) feet.
9. Lots without municipal water and sewer shall not be considered for multiple-family use.

500.29 C-1, Central and Neighborhood Commercial District

Subd.1 Intent

The purpose of the C-1 Central and Neighborhood Commercial District is to provide for the establishment of commercial and service activities which draw and serve customers from the community and its surrounding areas within the ‘downtown’ area of the original townsite. The C-1 Central and Neighborhood Commercial District is intended to provide areas appropriate for pedestrian oriented retail

uses, professional offices, professional services uses, single family uses, multiple family uses and mixed commercial/residential uses particularly in transitional situations between zones of varying intensities.

Subd.2 Permitted uses

1. Business services including banks, professional offices, and professional services.
2. Post offices, City Hall, and other public/institutional uses.
3. Clothing sales and services including tailor and dry-cleaning and laundry establishments.
4. Retail sales and repair services including electronics, household appliances, furniture, lighting, or similar household trade items.
5. Plumbing, electrical, and HVAC contractor shops providing they have retail showrooms.
6. Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, cafes, delicatessens, candy shops, and bakeries whose products are sold only at retail on the premises.
7. Personal services including drug stores, hardware stores, stationary and bookstores, news shops, apparel shops, showrooms for articles to be sold at retail, flower shops, commercial greenhouses, Laundromats, convenience stores and video stores.
8. Personal services including barber and beauty shops, reducing salons, photographic shops, funeral homes, and tanning salons.
9. Dwelling unit(s) in conjunction with commercial uses provided:
 - a. Separate and independent access from the commercial unit(s) is provided.
 - b. The use is adjacent to or provides off-street parking, and the ground level is solely for permitted commercial activities.
 - c. Governmental and public utility buildings and structures.
 - d. Essential services.
 - e. Theaters, bowling lanes, clubs, and lodges.
 - f. Hotels, motels, taverns, private clubs, and lodges.
 - g. Clinics and other buildings for the treatment of human beings.

Subd.3 Permitted Accessory Uses

1. Off-street parking and loading areas in compliance with Subsection 500.43 of this Code.
2. Commercial or business buildings for a use accessory to the principal use providing the standards of Subsection 500.25, Subd.6 are met.
3. R-1 attached or detached garages where a non-conforming R-1 principal use has already been established, subject to Lot Area, Width, Setbacks, and Height requirements set forth under Ordinance 500.25, Subd.6.

Subd.4 Conditional Uses

1. Open outdoor sales, services, or rental as an accessory use provided:
 1. The area is fenced or screened from the abutting properties.
 2. Sales areas are properly surfaced to control dust.
2. Automobile service stations including sales, gasoline service stations, and automobile repair garages, provided that a filling station, public garage, or motor fuel station may not be located within 200 feet of a school, church, hospital, or meeting place having a seating capacity of more than 50 persons.
3. Public transportation terminals and service stations.
4. Buildings used for research and testing laboratories, storage buildings, or distributing station.

Subd.5 Lot, Yard, Area and Height Requirements

1. Lots of Record as of June 1, 2014:
 - a. Front yard: None.
 - b. Side yard: None, unless abutting a residential district, then a landscaped buffer approved by the City Council is required.
 - c. Rear yard: None, unless abutting a residential district, then a landscaped buffer approved by the City Council is required.
 - d. Height: Maximum height of three (3) stories or 45 feet.
2. Lots created after June 1, 2014:
 - a. Minimum Lot Size: 10,000 square feet.
 - b. Minimum Lot Width: 100 feet.
 - c. Front/Corner Yard Setback: 20 feet.
 - d. Interior Side Yard Setback: 10 feet, plus landscaped buffer approved by the City Council if abutting a residential area.
 - e. Rear Yard Setback: 10 feet, plus a landscaped buffer approved by the City Council if abutting a residential area.
 - f. Maximum Height: Two stories or 35 feet.
3. Maximum Structural Coverage: Fifty (50) percent of lot area.

500.31 C-2, Community Commercial District

Subd.1 Intent

The purpose of the C-2 Community Commercial District is to provide space for general business and commercial activities dependent upon high volumes of vehicular traffic. The intent of this Subsection is to provide locations where the vehicular-oriented activities can be maximized with minimal infringement on residential neighborhoods and with minimal conflicts with uses allowed in the C-1 Central and Neighborhood Commercial District.

Subd.2 Permitted Uses

1. Auto accessory stores.
2. Automobile (truck, snowmobile, motorcycle, and marine) sales and service.
3. Commercial recreational services.
4. Farm implement sales and services.
5. Motels and hotels.
6. Tourist oriented retail stores.
7. Residences when occupied in connection with the commercial use and part of the principal structure.
8. Restaurants, cafes, taverns, and grocery stores.
9. Drive-in restaurants, drive-through banks, and other drive-in services.

Subd.3 Permitted Accessory Uses

1. All permitted accessory uses in the “C-1” Central and Neighborhood Commercial District.
2. Off-street parking and loading facilities including semi-trailers as provided for under Subsection 500.43 of this Code.

Subd.4 Conditional Uses

The following uses require a conditional use permit based on the proceedings set forth in Subsection 500.63 of this Code:

1. All conditional uses allowed in the “C-1” Central and Neighborhood Commercial District.
2. Open air display areas for the sale of manufactured products such as lawn and garden furniture, hardware items, nursery stock, or rental of manufactured products or equipment, including mobile home sales lots.
3. Recreational camping areas provided:
 1. Land area is suitable and adequate for the proposed use.
 2. The site is serviced by a paved arterial street.
 3. Utilities are provided to each site and approved by the City Council.
4. Retail sales and services on an individual basis.

Subd.5 Lot, Yard, Area and Height Requirements

1.

		Setbacks (ft.)		
Lot Area	Lot Width	Front and Corner	Side	Rear
10,000 sf	100 ft.	30	10*	10*

* A fifteen (15) foot landscaped buffer yard approved by the City Council is required for every commercial parcel directly abutting a residential lot.

2. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback is the average of the adjacent structures. If there is only one adjacent structure, the setback is the average of the required setback and the setback of the existing structure. The front yard setback requirement will not exceed 30 feet in any case.
3. On corner lots, the side yard shall be 30 feet or in line with the adjacent structures on the same block provided this does not reduce the build-able width to less than 30 feet.
4. Height: Maximum Height: 2 ½ stories or thirty (30) feet.
5. Maximum Structural Coverage: Fifty (50) percent.
6. Minimum lot frontage on a public street: Fifty (50) feet.

500.33 I-1, General Industrial District

Subd.1 Intent

It is the intent of this district to provide for and allow a wide range of industrial, warehousing, and wholesale bulk commercial activities in locations that will not conflict with other uses.

Subd.2 Permitted Uses

1. A branch of trade or industry employing labor and capital, activities not allowed in commercial districts, activities that do not require steam, diesel, or gasoline engines as a prime mover, excepting that no industry or use noxious by reason of odor, dust, smoke, noise , or gas may be included which interferes with other permitted uses.
2. Light industrial uses including light manufacturing, fabrication, assembly, and production.
3. Building materials, storage yards, lumber yards.
4. Contractor equipment and storage yards.
5. Food processing and distribution facilities.
6. Wholesale business and warehousing.

7. Industrial research laboratories.
8. Machine shops, public and private garages.
9. Public utility and service buildings and gas regulator stations.
10. Outdoor recreational facilities.

Subd.3 Permitted Accessory Uses

1. Off-street parking and loading as regulated by Subsection 500.43 of this Code.
2. Open and outdoor storage, as regulated by Subsection 500.475 of this Code.
3. Offices clearly subordinate and accessory to a principal use.
4. Residences when on the same parcel as the principal use which are clearly subordinate to the principal use and which are occupied by an individual employed by the principal use.
5. Signs, as regulated by Subsection 500.35 of this Code.

Subd.4 Conditional Uses

The following uses will require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

1. Industrial storage and material recycling.
2. Manufacturing of cement, concrete, lime gypsum, or plaster.
3. Grain elevators and storage subject to height restrictions set forth as part of the conditional use permit.
4. Livestock feeding yards, slaughtering of animals or stock yards.
5. Other heavy industrial uses, except for the following:
 - a. Distillation of bone, coal, tar, petroleum, refuse, grain, or wood.
 - b. Explosive manufacture or storage.
 - c. Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatin manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
 - d. Petroleum or asphalt refining, manufacturing or storage.
 - e. Smelting or refining of metals from ores.
 - f. Steam and board hammers and forging presses.
 - g. Storing, curing and tanning of raw, green, or salted hides or skins.
 - h. Corrosive acid manufacturing or bulk storage thereof.
 - i. Junk yards.

Subd.5 Lot, Yard Area and Height Requirements

		Setbacks (ft.)		
Lot Area	Lot Width	Front and Corner	Side	Rear
1 Acre	100 ft.	40	15	20

Lot structural coverage shall not exceed 50%.

500.35 Signs

Subd.1 Findings

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of

messages.

3. Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare.
4. The City has previously regulated signs in an effort to provide adequate means of expression and to promote the economic viability of the business community while protecting the city and citizens from a proliferation of signs of a type, size, location, and character that would adversely impact the public health, safety, and welfare.

Subd.2 Purpose and Intent

1. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the city in order to promote the public health, safety, and welfare.
2. Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
3. Provide an effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
4. Provide for fair and consistent enforcement of sign regulations under the zoning authority of the city.
5. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign, to regulate any building design or display not defined as a sign, or any sign which cannot be viewed from outside of a building.

Subd.3 Effect

1. Allow a wide variety of sign types in commercial zones and a more limited variety of signs in other zones subject to the standards herein.
2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Section.
3. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having lesser impact on the environment and the public health, safety, and welfare.
4. Provide for enforcement of this Section through the enforcement provisions contained in the Zoning Ordinance.
5. A sign may be erected, displayed, or maintained in the city if it is in conformance with the provisions of these regulations.

Subd.4 Definitions

Commercial Speech: Speech advertising a business, profession, commodity, service, or entertainment.

Multiple Tenant Site: A site which has more than one tenant and each tenant has a separate ground level exterior public entrance.

Non-Commercial Speech: Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

Sign: Any letter, word, symbol, poster, picture, statuary, reading matter, or representation in the nature of advertisement, announcement, message, or visual communication whether painted, posted, printed, affixed, or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes.

Sign, Abandoned: A sign shall be defined as abandoned when one of the following occurs:

- A. A sign and/or supporting structure remains without a message or whose display surface remains blank for a period of one or more years.
- B. A sign pertains to a time, event, or purpose which no longer applies.
- C. A sign remains after demolition of a principal structure and a building permit has not been issued for construction of a replacement principal structure.

Sign, Awning: A building sign or graphic printed on or in some fashion attached directly to the material of an awning which projects over a window, walk, or the like. Any part of an awning which also extends over a door shall be considered an awning.

Sign, Business: A sign attached to or supported by any structure used or intended for supporting or sheltering any use or occupancy.

Sign, Canopy: A sign that is part of or attached to a canopy or structural protective cover over a door or entrance.

Sign, Face: The surface of the sign upon, against, or through which the message of the sign is exhibited.

Sign, Flashing: Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

Sign, Freestanding: A sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Sign, Ground: A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.

Sign, Height: The vertical distance measured from the base of the sign at average grade to the top of the highest attached component of the sign.

Sign, Illuminated: Any sign which has characters, letters, figures, designs, or outlines illuminated by internal or external electric lights or luminous tubes as part of the design.

Sign, Monument: A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.

Sign, Nameplate: Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

Sign, Non-Conforming: A sign and its support structure lawfully erected prior to the effective date of this Section which fails to conform to the requirements of this Section.

Sign, Off-premise: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. Easements shall be considered to be outside such platted parcels of land and any

sign located or proposed to be located in an easement or shall be considered an off-premise sign.

Sign, On-premise: A sign which identifies or advertises an establishment, person, activity, goods, products, or services located on the premises where the sign is installed.

Sign, Portable: A sign purposefully designed to be transported, including by trailer or on its own wheels.

Sign, Projecting: Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface or such building or wall face.

Sign, Pylon (pole sign): A freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

Sign, Roof: A sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Rotating: A sign which revolves or rotates on its axis by mechanical means.

Sign, Structure: Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.

Sign, Stringer: A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Sign, Surface Area of: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display, (only one side of a double-face or V-type structure shall be used in computing total surface area.)

Sign, Suspended: A building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Sign, Wall: A building sign attached parallel to but within two feet of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign face.

Sign, Window: A building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes/glass and is visible from the exterior of the window.

Total Site Signage: The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

Subd.5 Permit Required

1. No sign shall be erected, altered, reconstructed, maintained, or moved in the City without first securing a permit from the City. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in

writing and shall contain the following information:

- a. Name(s) and address(es) of the owners of the display structure and property;
 - b. The address(es) at which sign(s) is/are to be erected;
 - c. The legal description of the subject property;
 - d. The type of sign;
 - e. The cost of the sign;
 - f. The proposed sign dimensions and placement on the subject property;
 - g. If the proposed sign is located within a public road right of way or an easement, the Applicant must obtain written permission from the appropriate jurisdiction. A copy of said written permission, if provided by a jurisdiction other than the City of Freeport, may be required.
2. The permit application shall be accompanied by the required fee as specified by the fee schedule.
 3. The City shall approve or deny the permit within the time period under Mn. Stat. 15.99. If the requirements of this Section and other applicable standards contained within the Zoning Ordinance are met the permit shall be approved.

Subd.6 Exceptions

The following signs shall not require a permit. Although exempt from permitting requirements, this Subdivision shall not relieve the owner of the sign from the responsibility of its erection and maintenance, and compliance with the provisions of this ordinance or any other law or ordinance regulating the same:

1. The changing of the display surface on a painted or printed sign, except a sign painted directly on a building.
2. Signs eighteen (18) square feet or less in size.
3. Public safety and traffic management signs erected by governmental units.

Subd.7 General Requirements

1. Off premise signs may only be permitted as conditional uses on property abutting Interstate 94 and zoned for industrial purposes subject to the procedures set forth in Subsection 500.63 of this Code.
2. Setbacks.
 - a. Signs shall be setback a minimum of five feet from a property line, except within the Central and Neighborhood Commercial District.
 - b. Signs shall not be placed in highway, street, or utility easements until the Applicant obtains written permission from the appropriate jurisdiction. A copy of said written permission, if provided by a jurisdiction other than the City of Freeport, may be required. Signs proposed to be placed within municipal easements shall require issuance of an administrative permit.
 - c. Signs shall not obstruct a clear sight triangle at each corner of any intersection of two public streets and/or the intersection of a public street and a railway. Said clear sight triangle shall be defined as beginning at the intersection of the projected curb lines of two intersecting streets or a street and a railway, then proceeding twenty-five feet along one curb line, then proceeding diagonally to a point of twenty-five feet from the point of beginning on the other curb line and then proceeding to the point of beginning. In the event the City Engineer finds the required sight triangle inadequate, additional clear areas shall be required.
3. Signs or marquees which may extend beyond the building line may not be constructed to extend within one foot of the traveled roadway, provided that the sign does not extend more than seven

feet from the building wall.

4. No lighting for signs shall directly reflect light beams onto any public street or residential lot. Light trespass shall not exceed one-half (1/2) candle foot at any property line shared by the subject parcel and a public street/alley or the subject parcel and a residential district. External illumination for signs shall be constructed and maintained so that the source of light (e.g. bulb or illumination tube) is not visible from the public right-of-way or residential property.
5. The owner, lessee or manager of any sign or the owner of the land on which the same is located, must keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which the sign is located.
6. A sign or sign structure that may be, or may hereafter become, rotted, unsafe or unsightly must be repaired or removed by the licensee, owner or manager of the property upon which the sign stands upon written notice of the City Clerk.
7. Electrical signs must be installed in accordance with the current electrical code.
8. The following are unauthorized signs:
 - a. Any sign, signal, marking, or device which is similar to or imitates an official traffic control device, railroad sign or signal, and/or emergency vehicle signal.
 - b. Signs painted, attached, or in any way affixed to trees, public utility poles, bridges, towers, or similar structures.
 - c. Signs obstructing any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building.
9. Calculation of Sign Area:
 - a. The area within the sign frame shall be used to calculate the square footage.
 - b. Square footage of signs mounted directly on a wall, window, or other structural surface without a sign frame shall be determined by drawing a box around the outermost periphery of letters or graphics. The square footage shall be that of the box surrounding the said letters or graphics.
 - c. Each surface used to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage.
10. Notwithstanding any other provision of this Section, all signs of any size containing non-commercial speech as defined in Subdivision 4 of this Subsection, may be posted from August 1 in any general election year until ten days following the general election and thirteen weeks prior to any special election until ten days following the special election

Subd.8 Signs in Commercial Districts

1. The number of square feet of business sign area on a lot may not exceed five square feet for each lineal foot of lot frontage, or 20% of the building frontage area, or 125 square feet in area, whichever is greater.
2. Multi-Tenant Structures: One incidental sign not exceeding two square feet in area for each lineal foot of a building width or a total frontage of all buildings, announcing only the name or location or both of the multi-tenant structure may be erected without reduction of the square foot allowance.
3. Business signs may be attached to or erected flat against the wall of buildings. Business sign structures may be single face, double face, or "V" type. Business signs may not be erected within 100 feet of any abutting residential district if designed to face directly into such district.
4. Signs attached to or erected flat against the wall of a building shall not extend in height above the wall of that building by more than 50% of the height of the wall to which the sign is attached.
5. Signs mounted on a building on or above the roof line shall not extend in height above the roof line of that building by more than 50% of the height of the structure to which the sign is attached.

6. Signs that are freestanding shall not extend in height above the roof line of the tallest building by more than 50% of the height of the tallest building located on the same parcel.

Subd.9 Signs in Industrial Districts

1. The number of square feet of business sign area on a lot may not exceed two square feet for each lineal foot of lot frontage or 10% of the building frontage area, or 75 square feet in area, whichever is greater.
2. Business signs may be attached to or erected flat against the wall of buildings. If free standing, they must observe all setbacks and side yard lines. Business sign structures may be single face, double face, or "V" type. Business signs are subject to the same setback limitations as other buildings or structures in the districts in which they are located and may not be erected within 100 feet of any abutting residential district if designed to face directly into such district.
3. Signs attached to or erected flat against the wall of a building shall not extend in height above the wall of that building by more than 50% of the height of the wall to which the sign is attached.
4. Signs mounted on a building on or above the roof line shall not extend in height above the roof line of that building by more than 50% of the height of the structure to which the sign is attached.
5. Signs that are freestanding shall not extend in height above the roof line of the tallest building by more than 50% of the height of the tallest building located on the same parcel.

Subd.10 Signs in Residential Districts

1. One name plate sign per lot is allowed.
2. One home occupation sign may be erected on each lot wherein a licensed home occupation is being conducted providing the sign does not exceed six square feet in area and must not be illuminated.
3. A sign for a conditional-use property in an R-1 District or a sign for a permitted or conditional use in the R-2 District is eligible for one sign per street frontage. Said sign shall not exceed thirty-two (32) feet in total area and ten (10) feet in height.

Subd.11 Off-Premise Signs

1. Off-premise signs shall only be permitted as a conditional use in industrial districts on lots abutting Interstate 94.
2. The surface area of both sides of an off-premise sign located along Interstate Highway 94 shall not be more than six hundred (600) square feet.
3. No off-premise sign shall be located within five hundred (500) feet of parks, historical sites, public picnic or rest areas, or within two hundred (200) feet of church or school property.
4. No off-premise sign shall be located closer than thirty-five hundred (3500) feet horizontal distance from any other advertising sign measured in any direction.
5. Off-premise signs shall not exceed thirty (30) feet in height above the average ground level at the base of the sign.

Subd.12 Non-Conforming Signs

1. Existing signs attached to a non-conforming building or pertaining to a non-conforming use may be continued only as long as the non-conforming use is permitted to continue. Such signs attached to a non-conforming building or pertaining to a non-conforming use shall not be expanded, intensified, or increased in number, area, height, or illumination. New signs shall comply with all regulations relating to signage and may be erected only after all other signs existing at the time of the adoption of this Ordinance have been removed. The accumulated square footage of new signs installed shall not exceed the square footage of signs previously on

site, or the amount allowed in the City's sign ordinance, whichever is less. New signs may not be illuminated unless the previous sign was illuminated. The level of illumination in terms of volume, brightness, area covered, and/or size shall not be allowed to increase over that of the prior-existing sign.

2. The standards of Section 500.53 of the City Code (Non-Conformance) shall apply to signs.

Subd.13 Substitution Clause

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting

500.37 Shoreland Overlay District

Subd.1 Intent

The uncontrolled use of shoreland in the city affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of public health, safety, and welfare to provide for the wise development of shoreland and flood plain areas. The Legislature of Minnesota has delegated responsibility to the municipalities of the State to regulate the subdivision, use, and development of the shoreland and flood plains and thus preserve and enhance the quality of surface waters, preserve the economic and natural values of shoreland and provide for the wise utilization of waters and related land resources.

Subd.2 Shoreland Management Classification

In order to guide the wise development and utilization of shoreland of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety, and welfare, all public waters, in the city have been given a shoreland management classification. The public waters of the city have been classified by the Commissioner of the Department of Natural Resources as follows:

1. Recreational Development Lake - Freeport Lake

Subd.3 Shoreland Overlay District

The shoreland of the city are designated as a shoreland overlay district. The purpose of the shoreland overlay district is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of public waters of the city.

1. Permitted uses. All permitted uses allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the city.
2. Conditional uses. All conditional uses and applicable attached conditions allowed and regulated by the district as indicated on the official zoning map of this city. Notice of all requests for conditional uses and variances must be forwarded to the Department of Natural Resources at least ten days prior to any hearing.
3. General provisions. The following standards apply to all shoreland of all public waters within the city. All development must utilize city utilities. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards apply:

Freeport Lake Recreational Development Waters	
Lot area	20,000 ft.
Water frontage and lot at building line	150 ft.

Building setback from ordinary high water mark	100 ft.
Building setback from roads and highways (ft.)	50 State or County 30 City or private
Placement of roads and parking lots from ordinary high water mark	75 ft.
Elevation of lowest floor above highest known water level	3 ft.
Total lot area covered by impervious surface (%)	30

Subd.4 Lots of Record

Lots of record in the Office of the County Recorder on July 29, 1980, are allowed as building sites provided:

1. Such is permitted in the zoning district,
2. The lot is in separate ownership from abutting lands, and
3. Sanitary and dimensional requirements of this Code are complied with insofar as practicable.

Subd.5 Shoreland Alterations

1. Removal of natural vegetation must be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in the shoreland over land district is subject to the following provisions:
 - a. Selective removal of natural vegetation will be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings, and other structures when viewed from the water.
 - b. Clear cutting of natural vegetation must be prohibited.
 - c. Natural vegetation must be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.
 - d. The provisions of this Subsection do not apply to permitted uses that normally require the removal of natural vegetation.
2. Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward public water or a water course leading to a public water must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:
 - a. The smallest amount of bare ground is exposed for a short time is feasible,
 - b. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
 - c. Methods to prevent erosion and trap sediments are employed, and
 - d. Fill is stabilized to accepted engineering standards.
3. Excavations on shoreland where the intended purpose is connection to public water, requires a permit from the City Council before construction is begun. The permit may be obtained only after the Commissioner of the Department of Natural Resources has issued a permit for work in the beds of public waters.

Subd.6 Subdivision Provisions

1. Land may not be subdivided that is held unsuitable by the City for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply, or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed sub-division, or of the City.

2. Plats that are inconsistent with the shoreland district must be reviewed by the Commissioner of Natural Resources before approval by the municipality may be granted. The review requires that the proposed plats be received by the commissioner at least ten days before a hearing is called by the City for consideration of approval of a final plat.
3. Copies of all plats within shoreland areas, must be submitted to the Commissioner within ten days of final approval by the City.

Subd.7 Administration

1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this Subsection must be received by the Commissioner at least ten days prior to such hearings.
2. A copy of amendments and final decisions granting variances or conditional uses under this Subsection must be received by the Commissioner within ten days of final action or amendment.

500.39 General requirements

The intent of Subsections 500.41 to 500.46 is to establish general development performance standards. The regulations provided herein apply equally to all districts except where special provisions provide otherwise.

500.43 Off-Street Parking

Subd.1 Purpose

The purpose of this Subsection is to assist in alleviating or preventing congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the intensity of utilization of the various parcels of land or structures.

Subd.2 Intent

The intent of this Subsection is to establish general standards for off-street parking. In all zoning districts, with the exception of allowed uses in “C-1” Central and Neighborhood Commercial District, off-street parking facilities for the storage of motor vehicles for use of occupants, employees, and patrons of the building or structures hereafter erected, altered, or extended must be provided and maintained as herein prescribed.

Subd.3 Permit Required

1. No person shall construct, enlarge or change the dimensions of a parking area or driveway, unless and until a permit is secured from the City, except that a separate driveway permit shall not be required if the proposed driveway is constructed as shown on the approved residential subdivision grading plan. The permit application shall be accompanied by a site plan which in addition to other information, shall show the location of the off-street parking area provided for such building.
2. A permit shall not be required for the routine maintenance/repair of an existing driveway. However, any expansion, addition or upgrade of an existing driveway shall be compliant with the performance standards of this Subsection and driveways abutting roadways of other jurisdiction must secure permission from the appropriate jurisdiction.

Subd.4 Parking Lot Dimensions

Angle of Parking	Stall Width	Stall Length	Aisle Width
45°	12.5' regular; 15.5' handicapped	18'	16'
60°	10.5' regular; 13.5 handicapped	18'	18'
90°	9.0' regular; 12.0 handicapped	18'	24'

Subd.5 General Requirements

1. When the determination of the number of required parking spaces results in a fractional space that fraction, if one-half (1/2) space or greater, shall be rounded up to equal one (1) space.
2. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus twenty (20) percent, except as may be hereinafter modified.
3. When a structure contains two (2) or more types of uses, the gross floor area of each use shall be calculated and shared spaces such as hallways and bathrooms shall be excluded as non-productive space. The resulting net useable floor space figure shall be utilized to determine the off-street parking requirement.
4. The City Council may consider a reduction in the amount of parking space required for joint or mixed uses (other than purely residential) where it is sufficiently demonstrated and documented that a specific timing element (e.g. differing hours of operation are perpetually maintained; mixed storefront and multiple family residential uses in a single structure) or the nature of the use (e.g. senior housing; proximity to transit terminals/stations, etc.), will demonstrably affect the demand for parking.
5. Where a use is not specifically mentioned, off-street parking requirements are the same as for similar uses as determined by the Zoning Administrator.
6. On-street parking is not to be counted when calculating the off-street parking requirements in this Subsection.
7. Garage spaces may be counted as parking spaces provided that a garage space may not be counted if blocked by another space.
8. Loading space is not to be construed as supplying off-street parking space.
9. Whenever a use requiring off-street parking is increased in floor area and such use is located in a building existing on or before January 1, 1996, additional parking space for the additional floor area must be provided and maintained in amounts hereafter specified for that use.
10. Off-street parking facilities for dwellings must be provided and located on the same lot or parcel of land as the building they are intended to serve.
11. An entrance to or exit from a residential parking area may not be more than 32 feet in width. An entrance to or exit from a commercial or industrial parking area may not be more than 40 feet in width.
12. Off-street parking areas shall not be designed so that vehicles must back into the street or public way.
13. Where a use is not specifically mentioned, off-street parking requirements are the same as for similar uses.

Subd.6 Number of Parking Spaces Required

The amount of required off-street parking for new uses or buildings and additions to existing buildings will be determined as follows.

1. Single-family, two-family dwellings, and townhouses units - One space per unit.

2. Multiple family dwellings - Parking space required will be addressed at the time of parking permit application (one or two spaces will be required). A garage must be of the same architectural treatment as the dwelling.
3. Boarding houses, hotels, motels, and dormitories - One parking space for each dwelling unit or individual for whom sleeping accommodations are provided.
4. Places of assembly - One parking space must be provided for each four units of seating capacity in churches, theaters, gymnasiums, auditoriums, stadiums, or arenas. For schools (public or private) one parking space must be provided for each four units of seating capacity based upon the design of the auditorium, gymnasium, or stadium within the school.
5. Places of medical treatment - One parking space must be provided for each two employees plus one for each four beds in hospitals, sanitariums, rest homes, and nursing homes, one parking space must be provided for each two employees plus one for each doctor plus one per 100 square feet of floor area in clinics (medical or dental).
6. Offices - One parking space must be provided for each 250 square feet of floor space.
7. Bowling alley - At least five parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure.
8. Motor fuel station - At least four off-street parking spaces plus two off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts, or service must provide additional parking in compliance with other applicable sections of this Code.
9. Retail store and service establishments - At least one off-street parking space for each 250 square feet of floor area.
10. Retail sales and service business with 50% of gross floor area devoted to storage, warehouses, and/or industry - One space for each 250 square feet devoted to public sales and/or service plus one space for each 500 square feet of storage area or one space for each employee on the maximum shift, whichever is appropriate.
11. Restaurants, night clubs, taverns, or cafes - One parking space for each four seats, but not less than 15 spaces.
12. Manufacturing, fabrication, or processing of a product or material warehouse, storage, handling of bulk goods, post offices - One parking space for each two employees based on the maximum planned employment on each shift or one space for each 400 square feet of floor area, whichever is greater.

Subd.7 Parking Lot Design Standards

1. Parking lots shall be setback at least five (5) feet from all property lines.
2. Adequate ingress and egress must be provided from a public street or alley.
3. The parking lots must be maintained in a usable dustproof condition and kept graded and drained to dispose of surface water.
4. Compacted gravel driveways are permitted, however, where proposed gravel driveways terminate on a bituminous or concrete street the property owner shall install and maintain an entrance apron surfaced with concrete or bituminous. The entrance apron shall extend the width of the driveway and shall be installed from the edge of the bituminous or concrete roadway surface to the front property line.
5. Whenever a commercial or industrial use parking lot boundary adjoins property zoned for residential use a landscaped buffer approved by the City Council is required. Said landscape buffer shall be of sufficient width to prevent headlights from shining into residential lots on a year round basis.

6. Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks must be provided and maintained.
7. Parking lot designs for more than five (5) vehicles shall be reviewed by the City Engineer for adequacy of drainage and circulation.

500.44 Off-street loading

Subd.1 Loading Spaces Required

1. C-2 Highway Commercial District. One (1) off-street loading and unloading spaces shall be provided for units with a gross area of ten thousand (10,000) square feet. One (1) additional space shall be provided for each additional fifteen thousand (15,000) square feet of floor space.
2. C-1 Central and Neighborhood Commercial Districts. Off-street unloading facilities are subject to approval by the Zoning Administrator. On-street unloading shall be prohibited during peak travel periods so as to not interfere with traffic flow.
3. Industrial Districts. In industrial districts, the use of any building requiring loading or unloading of materials to or from trucks shall require one (1) off-street loading spaces for the first ten thousand (10,000) square feet of floor space and an additional space for each additional fifteen thousand (15,000) square feet of floor space.

Subd.2 Required Screening

1. Off-street loading spaces in conjunction with a commercial or industrial use and adjacent to collector or arterial streets and/or areas guided toward residential use within the Comprehensive Plan shall be screened from the view from the adjacent roadway.
2. For new construction occurring after the date of the adoption of this Ordinance, truck loading and receiving areas may not be on the front side of a building facing the street (this does not include drive-in entrances).

500.45 Fencing, screening, and landscaping

Subd.1 Fencing

1. Definitions.

Fence. A partition, wall, hedge, or row(s) of continuous vegetative plantings that are erected as a dividing marker, visual, or physical barrier, or enclosure.

Fence, Permanent. A fence constructed of wood, rust-resistant chain link steel, prefabricated and rust resistant aluminum, prefabricated vinyl, landscape masonry units, landscape brick units, stone, or decorative concrete. If wooden material is used it shall be made of processed wood, i.e. cedar, green treated, brown treated, or resin (but not creosote) composite. For the purposes of this Ordinance trellises, arbors, pagodas, and the like shall not be considered a fence.

Fence, Natural Living. A divider or barrier comprised of living vegetative materials. The owner of the adjacent property may trim or prune parts of the living fence that extend onto their property.

2. Permit Required.

- a. All permanent fences require a zoning permit from the City Zoning Administrator.

- b. Fences exceeding six (6) feet in height require approval from the City Zoning Administrator and issuance of a building permit.
 - c. Permit Application. Application for a zoning and/or building permit shall be on an approved form and shall include:
 - i. The name, address (property and mailing), and phone number of the Applicant.
 - ii. The name, address, and phone number of the Property Owner, if different than the Applicant.
 - iii. A site plan illustrating the proposed location(s) of the fence on the subject property in relation to property lines, existing buildings, and other pertinent information.
 - iv. A written description of proposed fence materials.
 - v. Applicant and Property Owner signatures.
 - vi. A fee as may be specified by the City Council.
3. Exemptions. The following are exempt from this Ordinance:
- a. Snow fences erected and/or maintained between November 1 and April 10.
 - b. Temporary fences associated with short-term events erected for a maximum of 10 days.
 - c. Underground fences for animal control.
 - d. Fences used for containment of farm animals within the Agricultural/Rural Residential District.
 - e. Silt fences when required by a Professional Engineer licensed in the State of Minnesota and/or the Building Official.
 - f. Ornamental fences composed of typical fence materials and erected solely as a landscaping enhancement and not for containment or screening purposes.
 - g. Fences or fence panels not exceeding six (6) feet in length and not reasonably contiguous.
 - h. Fences associated with public safety emergencies or operations.
4. Prohibited Fences. The following are prohibited fences in any and all zoning districts:
- a. Fences with metal sheathing.
 - b. Barbed wire, chicken wire, high tensile, electric wire, woven wire, or other livestock fencing, except if the property is zoned Agricultural/Rural Residential District.
 - c. A series of gates.
 - d. Fences including creosote lumber.
 - e. Living fences consisting of invasive plant species or harboring pests and/or rodents.
 - f. Makeshift, flimsy materials, or material such as paper, twine, rope, tin, webbing, and the like, except when used for traffic control or police security.
 - g. Any fence which is or has become dangerous to the public safety, health, or welfare.
 - h. Fences with components not designed or intended for employment as fence material, including, but not limited to, garage doors, tires, pallets, sheet metal, ribbed steel, metal siding, corrosive metal, solid (i.e. more than ninety percent (90%) opaque) metal, galvanized ribbed steel, household items (appliances, fixtures, furniture), and the like.
 - i. Non-permanent fences except as specifically allowed herein.
5. Fence Standards Applicable to All Fences. The following standards apply to fences in all zoning districts:
- a. Enclosed fences must have a minimum of two access gates.
 - b. Unless otherwise defined in this Section, fences shall be located no closer than two (2) feet from any side or rear yard lot line on the property of the person constructing or

- causing the construction of the fence. The two foot setback is required to allow the owner of the fence sufficient access to maintain both sides of the fence, to include the control of grass and weeds along the fence line.
- c. Fences in the front yard shall meet setback requirements of the applicable zoning district.
 - d. Fences in rear abutting alleys shall be place a minimum of five (5) feet from the property line.
 - e. Height.
 - i. Fences in residential zoning classifications shall not exceed six (6) feet in height and in the case of grade separation, the highest must be determined on the basis of measurement from the average point between the highest and lowest grade.
 - ii. Fences in commercial and/or industrial zoning classifications shall not exceed eight feet in height unless a conditional use permit is issued by the City Council.
 - f. Clear Sight Triangle Required. Location.
 - i. A fence, wall, structure, coniferous tree or obstruction greater than thirty (30) inches in height may not be erected, established, or maintained on a corner lot within a designated sight triangle.
 - ii. Said sight triangle is defined as being bounded by lot lines and a line connecting points on each lot line 20 feet from the intersection of the lot lines.
 - iii. The sight triangle requirement does not apply to chain link fences with openings of one and five-eighths (1-5/8) inches to two (2) inches which do not exceed forty-eight (48) inches in height.
 - iv. The sight triangle requirement does not apply to the “C-1” District.
 - g. Fences may be placed in a City utility and/or drainage easement at the sole expense of the property owner. In the event access to the easement is required, the City shall reserve the right to remove the fence without notice and solely at the owner’s expense. Replacement of any fence placed in an easement shall be the sole expense of the property owner.
 - h. Living fences shall not exceed six (6) feet in height and shall be maintained by the property owner, except that the owner of adjacent property may trim or prune parts of the living fence that extend onto their property.
 - i. Fences must be built so the “best side” is facing out. It shall be the property owner’s responsibility to maintain the outer side of the fence, including trimming of grass and weeds.
 - j. Wood fences must be slated so as to allow air flow through the fence.
 - k. Fencing around pool areas, when required, must be a minimum of six feet high. This fence must have two access gates and the Property Owner is solely responsible for ensuring the gates are locked when the pool is unattended.
6. Standards Applicable to Fences in Commercial and Industrial Districts. In addition to the standards contained in Chapter 500.45, Subd. 1, Subd. (d) as may be amended the following standards apply to fences in Commercial and Industrial Districts:
- a. Required permanent fencing. In commercial districts (C-1 and C-2) adjacent to residential districts, and not divided by streets, alleys, or roads recognized by the City Council, the commercial property owner must erect and maintain a fence not to exceed eight (8) feet in height or be less than six (6) feet in height and must screen the adjacent residential lot from eighty percent (80%) of the light emitted from cars, signs, or other lights as a direct cause of the commercial property’s activities and screen the litter produced by the users of the commercial property. The fence shall be placed from the property line at a distance of two (2) feet or greater, as to achieve compliance, to allow the commercial property

owner to maintain the fence and ground from the fence to the adjacent residential district property line.

Subd.2 Screening

Screening shall be accomplished by fencing, dense vegetative cover, and/or a combination of fencing and vegetative cover. Materials and equipment, except as provided in the district provisions of this Code must be stored within a building or structure or screened so as not to be visible from adjoining properties, except the following:

1. Usable laundry equipment (clotheslines),
2. Recreational equipment and vehicles,
3. Materials being used on site for construction, remodeling, or demolition activities that are the subject of a valid, issued building and/or zoning permit.
4. Landscaping material being employed on site during the current growing season.

Subd.3 Vegetation

In all zoning districts the lot area remaining after provided for parking, driveways, loading, sidewalks, or other requirements must be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or landscaping techniques.

500.47 Dwelling unit restrictions

Subd.1 Basement

A basement (except when used as a portion of the living space of the family, or as an earth sheltered home, cellar, garage, tent, or mobile home, or accessory building) may not be used as a residence or dwelling unit, temporarily or permanently, except elsewhere allowed in this Code. Basement dwelling units are subject to the applicable building code and other related codes as adopted by the City of Freeport.

Subd.2 Prohibited Living Quarters

Tents, play houses, campers, recreational vehicles, or similar structures may be used for play or recreational purposes, but shall not be independent living quarters.

Subd.3 One Principal Structure per Lot

Accept as may be provided under Subsection 500.55 (PUD) the number of principal structures per lot is strictly limited to one (1) principal structure per lot.

500.475 Outdoor storage

Subd.1 Residential Uses

All outside storage of materials and equipment for residential uses shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

1. Clothes line pole and wire.
2. Parking of licensed and operable vehicles in compliance with this Ordinance (Off-street parking). Junk vehicles as defined under Minnesota Statute 168B.011, Subd. 3, as may be amended, are specifically and completely prohibited from being stored outdoors. The property

owner has the burden of proving a vehicle does not meet the 'junk vehicle' standard as set under the aforementioned statute.

3. Any combination of five (5) or fewer licensed and operable recreational vehicles (RV's, boats, snowmobiles on a trailer, etc.) and/or seasonal automobiles may be parked or stored on property outside a home, provided:
 - a. They are not stored within the front yard, except if parked on an approved driveway.
 - b. If stored within the side or rear yard, they are at least five feet from the property line, placed on an improved surface (e.g. crushed rock, gravel, asphalt, concrete, etc.) and landscaped/screened so as to be less visible from adjacent properties. Areas in which grass or weeds grow through the surface shall not meet said 'improved surface' requirement. If stored on a corner lot said storage must not interfere with motorist's views from intersecting streets. Such items shall not be stored on a turf surface.
 - c. Standards of the City's Abandoned Car Ordinance are met.
4. Parking of one (1) commercial motor vehicle of not over 32 feet in length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent.
5. Construction and landscaping material currently being used on the premises for a period not to exceed six (6) months of any given project start date.
6. Lawn furniture or furniture used and constructed explicitly for outdoor use.
7. Playground equipment.
8. Dog houses.
9. Rear or side yard exterior storage of not more than one cord of firewood which is for consumption only by those inhabiting the property on which it is stored.

Subd.2 Commercial/Industrial Uses

All non-residential outside storage shall conform to the following conditions:

1. The area occupied is not within a required front yard.
2. If abutting a Residential District or a residential use a landscaped buffer of no less than 15 feet in width is provided according to a plan approved by the City.
3. The storage area is improved through the use of compacted gravel, crushed rock, asphalt, or concrete and drive aisles and entries/exits shall be surfaced with asphalt and/or concrete. The storage area shall be maintained in a dust free manner as approved by the City. Proper storm water drainage shall be maintained at all times. Dirt, grass, or surfaces through which weeds/grass protrude do not meet the standard of an 'improved' as used above.
4. All lighting is directed away from the public right-of-way and from neighboring residences.

Subd.3 Refuse and Waste

1. Refuse: All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open, when the same is construed by the City Council to be a menace or nuisance to the public health, safety, or general welfare of the City, or to have a depressing influence upon property values in the area.
2. Waste Materials: Waste materials are to be picked up and disposed of in accordance with any and all city standards applicable to refuse/waste materials. Excluded waste materials must be disposed of in a safe and appropriate manner in accordance with local, state, and federal law. Release of excluded waste materials to public or independent sewage treatment systems, the environment, or the solid waste stream is strictly prohibited. The disposal service shall, upon

collection, immediately assume title to and liability for solid waste materials, recyclables, and demolition debris.

500.48 Accessory structures

Subd.1 General Standards

1. Agricultural buildings on agricultural properties and industrial buildings on industrial properties are exempt from the requirements of this Section.
2. In cases where an accessory building is attached to the principal structure it shall be made structurally part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure.
3. An accessory building unless attached to and made a part of the principal structure shall not be closer than ten (10) feet to the principal structure, unless a smaller separation is granted under a conditional use permit.
4. Accessory buildings or structures shall not be constructed on any lot prior to the construction of a principal building.
5. Accessory buildings shall not be constructed in the front yard. Accessory structures are allowed in the side and/or rear yard providing setbacks are achieved.
6. Private garages and accessory structures larger than one-hundred twenty (120) square feet shall be placed on a permanent foundation which shall be defined as a floating slab with a rodent inhibiting barrier extending to a depth of at least one (1) foot below the average grade. A storage or utility structure of one-hundred twenty (120) square feet or less shall be placed on a leveled four (4) inch gravel or rock base with a rodent inhibiting barrier provided between the base and the structure. Any accessory structure shall be firmly anchored to the surface regardless of structure size.
7. Architectural Detail Requirements: Accessory structures shall have architectural details which are the same or reasonably similar to the principal structure based on, but not limited to, the following:
 - a. Roof orientation and pitch;
 - b. Roof type (e.g. gabled or hipped);
 - c. Eave, overhang depth, and fascia/soffit type and appearance;
 - d. Exterior color.
8. Size Limit: Accessory structures shall be clearly and reasonably subordinate to the principal structure in terms of both scale and bulk. Total accessory structure square footage, excluding attached garages, shall not exceed ten (10) percent of the lot area or six hundred (600) square feet, whichever is greater. The City Council may approve a conditional use permit to accommodate larger accessory structures, however, at no time shall an accessory structure exceed the foundation size nor total square footage of the residential dwelling or commercial structure to which it is subordinate.
9. Number of Accessory Structures Limited: For all districts a maximum of two (2) detached accessory building less than or equal to one-hundred twenty (120) square feet are allowed per lot. In addition, a maximum of one (1) detached accessory structure greater than one-hundred twenty (120) square feet is allowed per lot.
10. Accessory structures shall not encroach upon easements.

Subd.2 Setbacks

Accessory Structure Setback Requirements: These requirements may be modified if a conditional use permit is granted:

District	Side, Interior	Side, Corner	Rear
R-1	Underlying zoning standard.	Underlying zoning standard for front yard.	5' unless rear loading, then 10'.
R-2	Underlying zoning standard.	Underlying zoning standard for front yard.	5' unless rear loading, then 10'.
C-1 & C-2	Underlying zoning standard.	Underlying zoning standard for front yard.	Underlying zoning standard.

Subd.3 Maximum Height

Accessory Structure Height Limited: The height of an accessory structure greater than one-hundred twenty (120) square feet shall not exceed eighteen (18) feet in height as measured from the average grade to the highest part of the structure. Structure heights exceeding eighteen (18) feet in height may be approved under a conditional use permit.

500.485 Home occupants

Subd.1 General Standards

All home occupations shall comply with the following performance standards:

1. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
2. Home occupations shall not change the residential character of the neighborhood, be incompatible with surrounding land uses, disturb surrounding residential uses, or be intrusive to surrounding dwellings.
3. Home occupations shall not occupy or use greater than twenty-five percent (25%) of the combined footprint of structures on the subject parcel. In addition, a home occupation shall not occupy or use greater than twenty-five percent (25%) of the lot area; except that home day care providers may use greater than twenty-five percent (25%) of the lot area for play/recreation purposes.
4. A home occupation shall not be established before a dwelling unit exists on the subject property.
5. Operation of a home occupation shall be limited to the residential dwelling, an attached garage, or an accessory structure.
6. Home occupations shall not generate excessive employee, customer, or client traffic that is detrimental to the character of the surrounding properties.
7. Home occupations shall be conducted in a manner which produces no indication of noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line.
8. Any equipment used in conjunction with a home occupation shall not create electrical interference to surrounding properties.
9. Home occupations shall not require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
10. Areas used for home occupations shall meet all applicable fire and building codes.
11. Home occupations shall comply with the city nuisance regulations.
12. Home occupation walk-in traffic shall be conducted only between the hours of 6:00 a.m. and

10:00 p.m.

13. Home occupations shall be operated and licensed as required by applicable state and/or federal law.

Subd.2 Home Occupations Requiring a Conditional Use Permit

Home occupations requiring a conditional use permit: The following home occupations require the issuance of a conditional use permit. The City Council may impose conditions on the use permit so as to maintain the residential integrity of the surrounding neighborhood:

1. Home occupations involving retail or wholesale trade on-site which is conducted by more persons than the occupant of the dwelling unit.
2. Home occupations providing services on-site which are conducted by the dwelling unit occupant and/or more than one employee.
3. Home occupations involving outdoor storage of materials not typically associated with residential dwellings.
4. Home occupations involving outdoor storage of items of which the dwelling unit occupant is not the fee owner.
5. Home occupations with the potential to reasonably involve the presence of five (5) or more adult customers at the subject property at one time.
6. Home occupations conducted between the hours of 10:00 p.m. and 6:00 a.m. that generate walk-in traffic.
7. Home occupations involving the regular, reoccurring delivery or pick-up of materials by commercial vehicles more than one time per week.

Subd.3 Prohibited Home Occupations

1. Home occupations involving illegal substances, illegal devices, and/or unlawful activities are prohibited.
2. Home occupations involving explosive materials as defined in MN Rules 7500.0100 as may be amended are prohibited.
3. Home occupations involving sexually oriented materials and/or activities as defined by MN. Statutes as may be amended are prohibited.
4. Home occupations conducted in a manner which produce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line are prohibited.
5. Home occupations involving materials or storage of items declared a public nuisance, as defined by City nuisance standards.

500.49 General performance standards

Subd.1 Sewers

All wastewater facilities must be connected to municipal wastewater facilities when available. Where wastewater lines are not constructed or in operation, all wastewater facilities must be connected to approved septic tanks and disposal fields. This subdivision does not apply to temporary construction sites or portable units.

Subd.2 Lighting

Lighting used to illuminate an off-street parking area, sign, or other structure must be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct sky-reflecting glare, whether from flood-lights or from high temperature processes such as combustion or welding is

prohibited. Glare shall not be directed at, onto, or into any adjoining property. The source of lights must be hooded or controlled in some manner so as not to light adjacent property or the sky. Bare incandescent light bulbs are not permitted in view of adjacent property or public right-of-way. Reflected glare or spill light shall not exceed five tenths (0.5) foot-candle when the source of light abuts any residential or public use parcel, or one (1.0) foot-candle when the source of light abuts any commercial or industrial parcel or any public right-of-way measured at one (1) foot above the ground at the property line. The latter requirement shall not apply to properties abutting public streets having foot-candle levels above one (1).

Subd.3 Smoke

The emission of smoke by any use must be in compliance with the regulations by the State of Minnesota Pollution Control Standards, Minnesota Rules 7001 – 7030, as may be amended.

Subd.4 Dust and Other Particular Matter

The emission of dust, fly, ash or other particulate matter by any use must be in compliance with and regulated by the State of Minnesota Rules 7001 – 7030, as may be amended.

Subd.5 Odor

The emission of odorous matter in such quantity as to be offensive is not permitted. The emission of odor by any use must be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules 7001 – 7030, as may be amended.

Subd.6 Noise

All noise must be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, must not exceed the minimum standards established by the State of Minnesota Rules 7001 – 7030, as may be amended.

500.50 Building Design Standards

Subd.1 – Metal Roofing

All single and multi-family dwellings, regardless of zoning, shall meet the following design criteria: metal roofs are allowed provided they are constructed of new material with standing seams and concealed fasteners. *Updated 11/25/14*

500.51 Height and yard exceptions

Subd.1 Structures

Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, penthouses, stacks, tanks, water towers, pumping towers, radio, or television towers, monuments, cupolas, steeples, and mechanical appurtenances pertaining to and necessary to the permitted use of district in which they are located, must not be included in calculating the height of the principal structure. Solar collectors will be considered on an individual basis as a variance as set forth in Subsection 500.55, subdivision 2.

Subd.2 Attached Structures

Outside stairways, fire escapes, fire towers, porches, platforms, decks, balconies, boiler flues, and other similar projections will be considered as part of the building and not allowed as part of the required space for yards, courts, or unoccupied space. This provision does not apply to a fireplace or chimney, not more than eight feet in length and projecting not more than 30 inches into the allowable side yard space, unenclosed porches or other ground level unenclosed projections which may extend into a front or rear yard not more than eight feet or into a side yard not more than six feet.

Subd.3 Private Driveway and Sidewalks

Driveways and sidewalks shall be exempt from yard setbacks and lot coverage requirements.

500.53 Non-Conforming Uses

Subd.1 Purpose and Intent

1. It is the purpose of this Section to provide for the regulation of non-conforming uses of land, non-conforming structures and non-conforming lots of record and to specify requirements, circumstances and conditions under which non-conforming uses of land, non-conforming structures and non-conforming lots of record may be operated and maintained.
2. This Section is intended to accomplish the following:
 - a. Recognize the existence of non-conforming uses of land and non-conforming structures which were lawful when established but which no longer meet all ordinance requirements;
 - b. Discourage the enlargement, expansion, intensification or extension of any non-conforming use of land or non-conforming structure or any increase in the impact of a non-conforming use of land or a non-conforming structure on adjacent properties;
 - c. Regulate the repair, replacement, restoration, and improvement of non-conforming uses and structures to prevent and abate nuisances and to protect the public health, safety, or welfare;
 - d. Encourage the elimination of non-conforming uses of land and/or non-conforming structures or reduce their impact on adjacent properties;
 - e. Eventually bring all non-conforming uses of land and non-conforming structures and uses into conformity.

Subd.2 Definitions

For the purposes of this Section, the following terms and phrases have the meanings given to them:

Legal non-conformity" or "non-conforming use. Any land use, structure, physical form of land development, lot of record or sign legally established before the effective date of this Ordinance or subsequent amendment to it that would not be permitted by, or is not in full compliance with, the regulations of this Ordinance. A non-conformity or non-conforming use is one of three types: non-conforming land use, non-conforming structure or non-conforming lot of record.

Non-conforming land use. An activity using land, buildings, and/or structures for a purpose that was legally allowed when established but that is not currently allowed as a use in the zoning district in which it is located.

Non-conforming structure. A legal non-conformity other than a non-conforming land use that complied with ordinance standards at the time it was established but that does not currently conform to an ordinance standard such as height, setback, or size.

Non-conforming lot of record. An existing base lot of record at the time of approval of this Ordinance that is non-conforming in terms of lot area or lot width or depth and that has not at any time been the site of a principal use/structure.

Expansion, enlargement, or intensification. Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. The addition of a site feature such as a deck, patio or fence may be allowed provided a conditional use permit is issued.

Improvement. Making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

Replacement, reconstruction, or restoration. Construction that exactly matches pre-existing conditions.

Subd.3 Standards

1. Non-Conforming Uses of Land:

- a. A nonconforming use of land and conforming structures used for a non-conforming use of land may be used and continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
- b. There may be no expansion, enlargement, or intensification of any non-conforming use of land.
- c. Change of Non-Conforming Use of Land. A non-conforming use cannot be changed to another non-conforming use. Whenever a non-conforming use has been changed to a conforming use it shall not thereafter be changed to a non-conforming use of a less restricted district.
- d. Discontinuance of Non-Conforming Use of Land. If a non-conforming use of land is discontinued or ceased for a period of one (1) year or more, or if a nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged; then, the subsequent use of such building or land shall conform thereafter to the uses allowed in the district in which it is located.
- e. If a non-conforming use is superseded or replaced by a permitted use, the non-conforming status of the premises and any rights which arise under the provisions of this Section terminate.
- f. If replacement, reconstruction, or restoration of a legal non-conforming land use is allowed, it may occur without any land use approval from the City if the resulting use

does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed. Work that would not meet this requirement and any work that would be an improvement to a non-conforming land use may not be undertaken unless a conditional use permit has been issued for the property. The City may impose conditions in a conditional use permit to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property.

- g. Notwithstanding the prohibitions contained in the foregoing paragraphs of this subdivision, if approved by the City Council, a non-conforming use may be changed to another non-conforming land use of less intensity if it is in the public interest and a conditional use permit is issued. In all instances the applicant has the burden of proving that the proposed land use is less intense than the exiting nonconforming land use.
2. Non-Conforming Use of Structures.
- a. A nonconforming structure may be used and continued, including through repair, replacement, restoration, maintenance, or improvement.
 - b. Expansion, Enlargement, or Intensification of a Non-conforming Structure. A non-conforming use of a building may not be expanded, enlarged or intensified by adding onto the building. Except that expansion, enlargement or intensification of conforming aspects of a non-conforming structure are exempt from this requirement. For example, if a structure has a non-conforming front setback, it may be expanded on the sides that do meet setback requirements as long as the expansion itself meets ordinance requirements.
 - c. Non-Conforming Structure, Structural Change. An existing non-conforming structure devoted to a non-conforming use may not be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.
 - d. Maintenance of Non-Conforming Structure. Maintenance of a building or other structure will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.
 - e. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability and safety of such units provided, however, that they do not increase the number of dwelling units in the building. The construction and alteration of garages and accessory buildings is also permitted, as long as the improvements conform with the zoning requirements for both the zoned use of the property, and the non-conforming use.
 - f. Continuation of Non-Conforming Use of Structure. The lawful use of a non-conforming structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the district provisions herein, unless the use ceases for a period of one (1) year or the non-conforming structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property was damaged.
 - g. Restoration Of Non-Conforming Structure After Destruction. Any non-conforming building or structure damaged greater than fifty (50) percent of its market value by fire, collapse, explosion or acts of God, or public enemy, shall not be restored or

reconstructed and used as before such destruction if no building permit is issued within 180 days after the damage occurred; but, if fifty (50) percent or less of its market value is damaged it may be restored, reconstructed or used as before provided that it is done within twelve (12) months of the happening.

- h. If replacement, reconstruction, or restoration of a legal non-conforming structure is allowed, it may occur without any land use approval from the City if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed, except for internal improvements and improved materials used to replace roof surfaces, siding, windows, doors, and similar components. Work that would not meet this requirement or any other improvement to a non-conforming development may not be undertaken unless a conditional use permit is issued. The City may impose conditions in its approval to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property.
 - i. Signs. Signs pertaining to or advertising products sold on the premises of a non-conforming building or use may be continued only when the non-conforming use is permitted to continue and such signs shall not be expanded in number, area, height, or illumination. New signs shall not exceed the maximum allowed under the City's sign ordinance, and may be erected only after all other signs existing at the time of the adoption of this Ordinance have been removed. The accumulated square footage of new signs installed shall not exceed the square footage of signs previously on site, or the amount allowed in the City's sign ordinance, whichever is less. New signs may not be illuminated unless the previous sign was illuminated, but flashing intermittent or moving illumination shall not be permitted.
 - j. Buildings Under Construction and Building Permits Granted Prior to Adoption of Ordinance. Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally non-conforming structure and/or use.
3. Non-Conforming Lots of Record.
- a. An existing lot of record that is non-conforming and that is not improved with a principal use is entitled to be developed with a principal use providing setbacks can be achieved; unless the subject parcel has been in common ownership with an abutting lot or parcel of land, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming in which case the non-conforming lot of record is not entitled to be developed with a principal use. This provision shall apply even though a lot entitled to a principal use fails to meet the zoning requirements for area or width, or both, that are generally applicable in the district. If, two (2) or more contiguous lots in any district are under the same ownership, and any individual lot does not meet the area and width requirements of this Ordinance, the lot must not be considered as a separate parcel or land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the area and width requirements of this Ordinance.

Subd.4 Burden Of Proof

A person who wishes to take advantage of the rights granted to a legal non-conformity has the burden of proving the status as a legal non-conformity by clear and convincing evidence.

500.55 Planned unit development

Subd.1 Purpose and Intent

It is recognized that the City's Zoning Ordinance is structured to regulate land use and development patterns of a conventional or traditional nature; however, there are situations where innovative proposals for the use of land may be submitted which do not relate to ordinance controls and would have to be rejected even though feasible and beneficial to the community. It is to accommodate such innovative proposals, even those that may mix land uses within a development, exceed stipulated densities, or depart from traditional lot sizes, that the City establishes a Planned Unit Development (PUD). The provisions of this Section are intended to encourage flexible, practical approaches to land use design and development in a manner which is in the best interests of both the developer and the community. More specifically, a PUD may provide for progressive developments which may achieve any number of the following:

1. Provide a maximum choice of living environments by allowing a variety of housing and building types, permitting increased density per acre, a reduction in lot dimensions, building setbacks, or area requirements;
2. Allow a more useful pattern of open space and recreation areas;
3. Provide more convenient access to services, commercial products and workplaces by providing for mixed use development;
4. Provide for development which preserves and/or utilizes existing natural site features and vegetation;
5. Provide more efficient use of land resulting in lower cost in utilities and city services; or
6. Provide for development in harmony with transportation facilities or services, community facilities, and the objectives of the Comprehensive Plan. Because of the flexibility allowed through the approval of a PUD, it is important that the City Council retain absolute authority over the approval or disapproval of a PUD. The approval of a PUD is a legislative decision of the City Council. No property owner has an affirmative right to develop their property using the planned unit development overlay district.

Subd.2 Conditional Use Permit Required

Planned Unit Developments shall require a conditional use permit (CUP) for the zoning district in which the proposed PUD is located. Unless specifically varied, modified, or set aside in the CUP, the underlying zoning district's permitted uses, rules, regulations and requirements shall govern the PUD.

Subd.3 Subdivision Regulations

The City intends that the proposed PUD property be subdivided simultaneously with the conditional use permit application. The uniqueness of each PUD, however, may require that specifications and standards for streets, utilities, public facilities and the approval of land subdivisions be altered from the standards set out in applicable City ordinances and policies. The City Council may, therefore, where it finds that such modifications are necessary and that such modifications will not adversely affect the health, safety or welfare of the general community, as part of the approval of the PUD, approve street, utility, and public facility plans as well as subdivisions which are not in compliance with the specifications or requirements established by City ordinances and policies. Applicants will, however, continue to be

required to obtain approval of plats in accordance with the procedural requirements of Minnesota Statutes and applicable City ordinances; however, those platting procedures may be accomplished in conjunction with the application process for a PUD. Except as varied by the conditional use permit or by agreement, the property's subdivision and/or platting as a PUD will be subject to the subdivision approval and recording requirements of the City and state law.

Subd.4 Permitted Uses

All permitted and accessory uses allowed in the underlying zoning district will be allowed within the PUD. In addition to the uses permitted in the underlying zoning district, all other uses designated as permitted by the CUP will be considered permitted as part of the PUD. No use will be permitted as part of a PUD if that use will have the potential for adversely affecting adjacent property or the public health, safety, or general welfare of the community.

Subd.5 Lot, Yard, Area, and Height Requirement

The lot, yard, area, height and other such performance requirements of the underlying zoning district will apply to the PUD, except as such are specifically modified as part of the PUD approval. An approved PUD may establish lot, yard, area, height or other performance requirements which vary from the underlying zoning district without having to go through the normal variance procedures. In no event, however, may a PUD alter such standards if doing so would violate a fire or safety code requirement. Variances from requirements of an underlying zoning district will not be implied except to the minimum extent required to comply with an approved PUD.

Subd.6 Property Control

The proposed PUD development property must be under unified control at the time of application, and be planned and scheduled to be developed as a whole. The applicant must have acquired actual ownership of or executed a binding sales contract for all of the property comprising the proposed tract. If more than one owner is involved, each owner must agree to be bound by the conditions and regulations which will be effective within the PUD and to record any covenants, easements and other provisions the City requires.

Subd.7 General Development Provisions

1. Roadways. Any private roadways within the project shall be designed as to permit City emergency fire, police and rescue services to provide protection to each building and to provide adequate access to arterial roadways.
2. Utility Connections:
 - a. Water Connections. Where more than one (1) property is served from the same service line, a shut off valve must be located so that the City may shut off each unit's service in addition to the normally supplied shut off at the street.
 - b. Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provisions must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning will be the responsibility of the property owners association, or owner.
3. Building Types. In addition to the conventional type of construction and arrangements of building, structures uses and property as allowed by this Ordinance, it will be permissible to cluster, adjoin, and attach structures in a row house, townhouse, patio home or similar style of development within the Planned Unit Development.
4. Subdivision and Ownership. It shall be permissible within a Planned Unit Development to subdivide properties into lesser size parcels for individual ownership and create common open

space areas in undivided proportions under joint ownerships. Such ownership arrangements are commonly defined as condominium and/or cooperative developments.

5. Minimum Project Size:
 - a. Within residential districts a Planned Unit Development shall not be applied to a parcel of land containing less than one (1) acre.
 - b. Within a commercial or industrial district a Planned Unit Development shall not be applied to a parcel of land containing less than two (2) acres.
6. Density Bonus. As a consequence of all Planned Unit Development's planned and integrated character, the number of dwelling units allowed within the respective zoning district may be increased. The building, parking and similar requirements for these extra units shall be observed in compliance with this Ordinance.
7. Public Services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection.
8. Municipal Improvements. The City may require all municipal improvements be completed (with roadways having at least one lift of blacktop) before building permits are issued.

Subd.8 Declaration

1. Filing with City. Before the use, occupancy, sale or execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, the owner must obtain the City's approval and file with the City a declaration of covenants, conditions and restrictions or an equivalent document with the City before filing the declaration, document or floor plans with the Stearns County, Minnesota recording office.
2. Land Subject to Declaration. The declaration of covenants, conditions and restrictions or equivalent document must specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments will subject the properties to the declaration's terms.
3. Owners' Association. Where deemed applicable, the declaration of covenants, conditions and restrictions should provide that an owners' association or corporation be formed and that all owners be members of the association or corporation which maintain all common areas in good repair and which will assess individual property owners proportionate shares of joint or common costs. This declaration will be subject to the City Attorney's review and approval. This requirement's intent is to protect the property values of the individual owner through establishing private control.
4. City's Assessment of Costs. The declaration must also provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and if the City incurs any expenses in enforcing its rules and regulations, which expenses are not immediately reimbursed by the association or corporation, then the City will have the right to assess each property its pro rata share of the expenses. The assessments, together with interest and collection costs, will be a lien on each property against which each assessment is made and, in addition, each assessment, together with its interest and collection costs, shall also be a personal obligation of the person who was the owner of the property at the time when the assessment became payable.

Subd.9 PUD Application and Procedure

1. Application and Fee. Applicants must apply for a PUD by filing for a conditional use permit under Section 500.63 of the City's Zoning Ordinance and paying the required fee.
2. All property owners within the proposed PUD's boundaries must sign the PUD application.

3. Application Fee. The City Council may establish a PUD application fee by resolution.
4. Development Plan. The conditional use permit application for a PUD must be accompanied by ten (10) copies of a development plan, including written information and a preliminary plat, showing the following in addition to other information required by applicable City ordinances:
 - a. The present ownership and developer of the property.
 - b. The entire outline, property lines, overall size, dimensions, area, and existing land uses of the property, along with the location of all buildings, roads, utilities, and other structures currently on the property.
 - c. The use, zoning and ownership of all adjacent properties within one hundred (100) feet of the tract boundaries including the location of all structures and the right-of-way width and traveled width of all adjacent public roadways.
 - d. The type and location of existing topography and other natural features, including wetlands, soils, vegetation, slopes, water features, drainage, and wildlife, of the property.
 - e. A general description of the proposed PUD including a written description of proposed variances from regulations of underlying zoning district and subdivision regulations.
 - f. Proposed land uses and approximate location and dimensions of roads, sidewalks, trails, lots and lot lines, buildings, easements, utilities, driveways, curb cuts, parking and loading areas, parks, open space, holding ponds, and unique development features; proposed number of lots and densities; distances between buildings and lot lines; landscaping, lighting, grading, and drainage plans; lot coverage and acreage; and other appropriate information.
 - g. Proposed development schedule, including progressive phasing, time schedules, expected start and completion date of each phase and the entire development.
 - h. Preliminary architectural drawings, if any, illustrating floor plans and exterior construction materials.
 - i. Proposed covenants or other private legal restrictions, if any.
5. Review. A CUP application for a PUD will be governed by the procedures set forth in Section 500.67 of the City's Zoning Ordinance for a conditional use permit.
6. Conditions. The City may impose such conditions and restrictions on the PUD as it deems necessary or advisable as part of its approval of the CUP.
7. Development Agreement and Performance Bond. As a condition to approval of the CUP for the PUD by the City Council, the applicant will be required to execute a development agreement which states the conditions of the PUD and the phases of the development. The CUP for the PUD, and its terms and provisions, may be integrated into the PUD development agreement with the Developer. The City may, in its discretion, require that the applicant provide the City with a performance bond or other security deemed sufficient by the City Council to ensure the applicant's compliance with the development agreement.
8. PUD Amendments. The procedures necessary to amend the CUP for the PUD after it has been approved by the City are the same as the procedures required for the original approval. Nonmaterial changes to the PUD may be made upon approval of the City Council without having to hold a public hearing. Matters will be considered nonmaterial only if they will not result in a change in use which is not otherwise permitted in the underlying district or will not require a variance from the regulations of the underlying zoning district.
9. Lapse of Time. If within one (1) year of the City Council's approval of the PUD no building permits have been obtained or if within one (1) year of the issuance of the first building permit on the property no construction has commenced, the PUD will become void. An applicant may request and receive an extension from the City Council in the event the applicant can demonstrate a good faith effort has been made to use the PUD, that there is a reasonable

expectation the PUD will be used, and the facts upon which the PUD was approved are essentially the same.

10. Yearly Inspections and Review. The City's Building Inspector will review each PUD at least once each year until completed and will make a report to the City Council on the status of the development in each PUD. If the development is not progressing according to schedule, the owner will be required to submit to the Building Inspector a written statement setting forth the reasons for the lack of progress. Within 30 days of such notice, the City Council will either revoke the approval of the PUD, and the land will thereafter be governed by the regulations applicable in the zoning district in which it is located, or the Council will take such steps as it deems necessary to compel compliance with the approved PUD.

Subd.10 Review and Evaluation Criteria

1. The City Council's review, evaluation, and approval or rejection of a proposed Planned Unit Development and supportive materials and plans may include, but not be limited to, the following criteria:
 - a. Adequate property control is established and provided to protect the individual owner's rights and property values and to define legal responsibilities for maintenance and upkeep.
 - b. The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and general public.
 - c. A sufficient amount of useable open space is provided.
 - d. The arrangement of buildings, structures and accessory uses does not unreasonably disturb the privacy or property values of the surrounding uses.
 - e. The architectural design of the project is compatible with the surrounding area.
 - f. The drainage and utility system plans are submitted to the City Engineer and are subject to his/her approval.
 - g. The development schedule insures a logical development of the site which will protect the public interest and conserve land.
 - h. Principal and accessory uses and requirements are in compliance with the district provisions in which the development is intended.
 - i. The planned unit development can adequately be serviced by City services without the expenditure of taxpayer funds in excess of what would be expected from other permissible development.

Subd.11 City Council Findings

In addition to the requirements of a CUP, the City Council must find the following in order to issue a CUP for a PUD:

1. Comprehensive Plan. The development will be planned so that it is consistent with the Comprehensive Plan for the community.
2. Harmony. The planned unit development will be planned and developed to harmonize with any existing or imminent development in the area surrounding the project site.
3. No Disturbance. The development will not be hazardous or disturbing to existing or planned neighboring uses, and will not materially adversely affect the values of adjacent properties.
4. Adequate Service. The development may be adequately served by essential public or private facilities and services, including streets, police and fire protection, drainage facilities, refuse disposal, water and sewer systems, and schools.

5. Beneficial. The distribution of buildings, streets and open space of the development will permit site planning that is superior to that which could be obtained without the PUD being approved and thus benefit both the residents of the development and community as a whole.
6. No Detriment. The distribution or location of buildings, streets and open spaces will not unduly increase the bulk of buildings, density of population, or intensity of use(s) to the detriment of areas outside the development by restricting access to light and air, by creating traffic congestion, or by other means.
7. Community Welfare. The development will not be detrimental to or endanger the public health, safety, morals, comfort convenience or general welfare.

Subd.12 General PUD Regulations

1. As a result of a planned unit developments integrated character, the number of dwelling units allowed within the respective zoning district may be increased by 5%. The development must provide the 25% of the land, specifically lakeshore or river area, be reserved for use of the entire development and that the remainder of any shoreline will be left in a natural state. The parking and similar requirements of these extra units must be observed in compliance with this Code.
2. It is the intent of this Subsection to require subdivision of property simultaneous with an application for a conditional use permit. The subdivision of land as a planned unit development is the same as imposed in the respective district.
3. The front, side yard, and shore land restrictions at the periphery of the planned unit development site, at a minimum, is the same as imposed in the respective districts. Lots must be designed so as to allow at least 15 feet between individual structures.
4. Private roadways within the project must have an improved surface to 20 feet or more in width. No portion of the required 20 foot road system may be used in calculating required off-street parking space.

Subd.13 Administrative Procedure

1. The proponent of a planned unit development must submit a preliminary subdivision plat and plot plan, along with an application for a conditional use permit. The preliminary plat must conform to the provisions of this Code and the subdivision ordinance. The plot plan must be drawn to a scale of not more than 50 feet per inch, showing the following:
 - a. The existing and proposed topography with contour intervals not greater than two feet,
 - a. The entire outline, overall dimensions and area of the tract described in the application,
 - b. Proposed public or community sewer and water system, including size, type, and capacity,
 - c. Proposed roadway, type, and capacity of paving,
 - d. The proposed site and existing adjacent developments,
 - e. Size and location of buildings,
 - f. Landscaping,
 - g. Parking areas and arrangements of stalls,
 - h. Allocation and disposition of park and open space,
 - i. Site and lot dimensions,
 - j. Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two-family units.
 - k. Location, type, and size of signing.
2. If the conditional use permit for the preliminary plat and plot plan is approved, the preliminary plat and the plot plan must be attached to and become a part of the conditional use permit. Any

modification to the preliminary plat or plot plan will require a resubmission to, and approval by the city council.

3. If the conditional use permit is approved, the final plat must be submitted to the city in accordance with the conditions of the permit and the provisions of this Code.

Subd.14 Property Control

1. The property must be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Code.
2. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, declaration of covenants, conditions, and restrictions or any equivalent document must be filed with the city clerk-treasurer for approval as part of the conditional use permit, prior to filings of said declaration or document with the recording officers of Stearns County.
3. The declaration of covenants, conditions, and restrictions or equivalent document must specify the deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments and must subject the properties to the term of declaration.
4. The declaration of covenants, conditions, and restrictions must provide that an owners' association or corporation must be formed and that all owners must be members of said association or corporation which must maintain all properties and common areas in good repair and which must assess individual property owners' proportionate shares of joint or common costs. This declaration must be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
5. The declaration must additionally among other things, provide that in the event the association or corporation fails to pay taxes or assessments on properties as they become due, then the City must have the right to assess each property its pro-rata share of said expenses. Such assessment, together with interest thereon and costs of collections, must be a lien on each property against which each such assessment is made and, in addition, each such assessment, together with such interest thereon and such cost of collection thereof, is personal obligation of the person who was the owner of such property at the time when the assessment became payable.

500.63 Conditional Use Permits

Subd.1 Purpose

The purpose of this Subsection of the City Code is to provide the City Council with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.

Subd.2 Scope

A conditional use permit is required when the use is classified as a 'conditional use' within a zoning district. If a proposed use is not specifically defined it shall be considered prohibited, unless found to be reasonably similar to a type of use that is allowed within the district. If the City Council finds the proposed use is reasonably similar to a type of use allowed within the district, the proposed use shall require the issuance of a conditional use permit. The City Council shall make a specific finding within the conditional use permit regarding conformance of the proposed use to any/all standards applicable to the type of use to which it has been found to be reasonably similar.

Subd.3 Review Procedure

The procedure defined in Subsection 500.66, Subd.1 of this Chapter shall be followed.

Subd.4 Criteria for Review

The City Council shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by State law. At a minimum, the Council shall consider the following standards as it would apply to the particular use at the proposed location:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan or Land Use Plan as may be adopted.
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms to all performance standards contained herein and the City Code.
4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

Subd.5 Conditional Approval

All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein. The Council may impose conditions which are considered reasonably necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Ordinance.

Subd.6 Revocation of Conditional Use Permits

1. A conditional use permit shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one year of the date of granting such conditional use.
2. A conditional use shall expire if that use shall cease for more than 12 consecutive months.
3. Inspections may be conducted to determine compliance with the terms of a conditional use permit.
4. Failure to comply with any condition set forth in a conditional use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the conditional use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit. A public hearing established to consider the revocation of a conditional use permit shall be conducted pursuant to the provisions of Subsection 500.66, Subd.1.

500.635 Interim use permits

Subd.1 Purpose

The purpose of this Subsection of the City Code is to provide the City Council with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.

Subd.2 Scope

An Interim Use Permit is required when the use is classified as an 'Interim use' within a zoning district. If a proposed use is not specifically defined it shall be considered prohibited, unless found to be reasonably similar to a type of use that is allowed within the district. If the City Council finds the proposed use is reasonably similar to a type of use allowed within the district, the proposed use shall require the issuance of an Interim use permit. The City Council shall make a specific finding within the Interim use permit regarding conformance of the proposed use to any/all standards applicable to the type of use to which it has been found to be reasonably similar.

Subd.3 Review Procedure

The procedure defined in Subsection 500.66, Subd.1 of this Chapter shall be followed.

Subd.4 Criteria for Review

The City Council shall consider possible adverse effects of the proposed Interim use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by State law. At a minimum, the Council shall consider the following standards as it would apply to the particular use at the proposed location:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan or Land Use Plan as may be adopted.
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms to all performance standards contained herein and the City Code.
4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

Subd.5 Conditional Approval

All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein. The Council may impose conditions which are considered reasonably necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Ordinance.

Subd.6 Revocation of Interim Use Permits

1. An interim use permit shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one year of the date of granting such Interim use.
2. An interim use shall expire if that use shall cease for more than 12 consecutive months.
3. Inspections may be conducted to determine compliance with the terms of an interim use permit.
4. Failure to comply with any condition set forth in an interim use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the Interim use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit. A public hearing established to consider the revocation of an interim use permit shall be conducted pursuant to the provisions of Subsection 500.66, Subd. 1.

500.64 Board of zoning appeal/adjustment; variances

Subd.1 Creation and Membership

A Board of Zoning Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. Such Board shall consist of the City Council.

Subd.2 Powers

The Board of Zoning Adjustment shall have power to grant adjustments in and exceptions to any of the provisions of this Ordinance to the extent of the following and no further:

1. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties of unnecessary hardships in the way of such strict application.
2. To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of passage of this Ordinance, but such extension of any district shall not exceed one hundred (100) feet.
3. A variance shall not be granted by the Council acting as the Board of Zoning Appeals unless the Board first considers the following standards. At the hearing the applicant shall present a statement and evidence in such form as the Board of Zoning Adjustment may require, showing these facts:
 - a. The variance is consistent with the Comprehensive Plan or Land Use Plan, if adopted.
 - b. The variance is in harmony with the general purposes and intent of the Ordinance.
 - c. The Applicant establishes that there are 'practical difficulties' in complying with the Zoning Ordinance. Practical difficulties as used in connection with the granting of a variance, means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.
 - d. Economic considerations alone shall not constitute practical difficulties.
 - e. Practical difficulties shall include, but is not limited to, inadequate access to direct sunlight for solar energy systems.
 - d. Variances shall be granted for earth sheltered construction as defined in MN. Stat. 216C.06, Subd.14 as may be amended, when in harmony with the Zoning Ordinance.

Subd.3 Review Procedure

The procedure defined in Subsection 500.66, Subd.1 of this Chapter shall be followed.

Subd.4 Appeals

Any person, firm or corporation objecting to the ruling of any official on the administering of the provisions of this Ordinance shall have the right to appeal to the Board of Zoning Adjustment.

Subd.5 Revocation of Variance

1. A variance shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one (1) year of the date of granting such variance.
2. A variance shall expire if that use shall cease for more than 12 consecutive months.
3. Inspections may be conducted to determine compliance with the terms of a variance.

4. Failure to comply with any condition set forth in the variance shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the variance.

500.65 Text Amendment and Rezoning

Subd.1 Purpose

The purpose of this Subsection is to allow for the zoning ordinance (either text or official map) to be amended and modified by following the procedure specified in this Section.

Subd.2 Amendment Initiation

The City Council may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of this Section shall not apply to such proposed amendments except to the extent required by Minnesota State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate, however such request shall be subject to the procedural requirement of this Section.

Subd.3 Application and Procedure

An amendment to this Chapter (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Subsection 500.66, Subd. 1 (Application Review Procedures) of this Section, as may be amended.

Subd.4 Criteria for Review

The City Council shall consider possible effects of the proposed amendment. Factors to be considered in determining the possible effects of the proposed amendment shall include, but are not limited to, the following:

1. The proposed amendment has been considered in relation to the specific policies and provisions of and has been found to be consistent with an existing comprehensive plan or land use plan.
2. The proposed amendment is or will be compatible with present and future land uses of the area.
3. The proposed amendment conforms to all performance standards contained in the Zoning Ordinance.
4. If applicable, actions resulting from the proposed amendment can be accommodated with existing public services and will not overburden the City's service capacity.
5. If applicable, traffic generation resulting from the proposed amendment is within capabilities of streets serving the property.

Subd.5 Approvals Required

Approval of a proposed amendment shall require a majority vote of all members of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial shall require a two-thirds (2/3) (four (4) out of five (5) members of the City Council) majority vote of all members of the City Council.

Subd.6 Effective Date

The amendment shall become effective following City Council approval and publication in the official newspaper.

500.66 Application Review Procedures

Subd.1 Applications for City Council Review

1. Application for any action requiring City Council review and approval under this Ordinance shall be made to the City Clerk on an application provided.
2. An application will be deemed complete unless the City Clerk or designee sends written notice within fifteen (15) business days of submission of the application indicating that it is not complete and indicating what information is missing.
3. Pursuant to Minnesota Statutes Section 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.
4. Completed applications shall be processed as follows:
 - a. Further Data: The City Council, City consultants, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the applicant, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the applicant.
 - b. Technical Reports: The City Clerk shall instruct the appropriate staff persons or consultants to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the City Council. The technical reports are to be entered in and made part of the record of the public hearing.
 - c. Notice of Hearing (if required): For applications involving Zoning Ordinance text amendments, rezoning, conditional use permits, and variances, the City Clerk or designee shall set a date for a public hearing.
 - d. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request. Said notice shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request. In addition the public hearing notice shall be mailed to the Department of Natural Resource Area Hydrologist, Stearns County Highway Department and/or the Minnesota Department of Transportation if the application impacts shorelands/flood plains (DNR), County highways or State highways.
 - e. Notice Not Received: Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Section, provided that a bona fide attempt has been made to comply with the requirements of this Section.
 - f. Hearing: After receipt of the report of the City Clerk or designee, the City Council shall conduct the public hearing and consider the application at its next regular meeting.
 - g. Presentation of Application: The applicant or a representative of the applicant may appear before the Council in order to present the case for the application and to answer questions concerning the request. Alternately, the City Clerk or designee may present the case for application.
 - h. The City Council shall hold the public hearing.
5. Action: Following the public hearing the City Council may:
 - a. Approve the request based on findings of fact, the approval may include conditions.
 - b. Deny the request based on findings of fact.

- c. Postpone action to a specific future date or regular meeting to allow more time for receipt of information.
- d. Occasionally a public hearing may be continued to a specific future date or regular meeting to allow more time for receipt of information.
- 6. Notice to Applicant: The City Clerk shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings that may have been passed by the City Council.
- 7. Filing of Notice of Action: A certified copy of any rezoning, conditional use permit, or variance authorized shall be filed with the Stearns County Recorder if the action has been approved.

Subd.2 Applications for Administrative Review

- 1. Application for an administrative permit shall be filed by the property owner or designated agent with the City Clerk on forms to be provided by the City. Applications shall be accompanied by information as may be required to fully review and evaluate the request. This Subsection does not apply to requests requiring City Council approval which shall be processed under Subsection 500.66, Subd. 1 of this Ordinance.
- 2. The application shall be accompanied by a fee as established by Resolution or Ordinance. Applications for amending permits shall be accompanied by a fee as established by Resolution or Ordinance.
- 3. The City Clerk or designee shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance. The City Clerk or designee shall notify the applicant, in writing, of an incomplete application within fifteen (15) days of the date of submission.
- 4. The City Clerk or designee shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
 - a. Compliance with and effect upon the Comprehensive Plan, Land Use Plan, and any existing public facilities plans as may be amended.
 - b. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.
 - c. The use event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
 - d. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - e. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - f. The City Clerk or designee shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application.
 - g. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances and the standards of this Ordinance shall be attached to the permit.
 - h. Determination of non-compliance with applicable codes, ordinances and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the City Clerk or designee is able to determine compliance.

- i. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Subsection 500.64, Subd.4 of the Zoning Ordinance as may be amended.
5. Performance Standards: All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed and any/all standards applicable to the proposed request.
6. The City Clerk shall keep a record of applications and administrative permits.
7. Enforcement of the provisions of this paragraph shall be in accordance with Section 500.69 of this Chapter as may be amended.
8. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.
9. In cases where the City Clerk or designee is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in this Section as may be amended.

Subd.3 Zoning Review

The City Clerk or designee shall be responsible for determining the level of review required and shall ensure compliance with all Sections of this Ordinance as may be amended. Zoning review is appropriate for all proposed building permit activities, fences, uses, outdoor storage, accessory structures, sign placement, and similar land use activities contemplated.

Subd.4 Site Plan Review

1. Purpose: The purpose of this Subdivision is to establish a formal site plan review procedure for commercial, industrial, institutional and multiple family uses and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance.
2. Exemptions: The following shall be exempt from the requirements of this Subdivision:
 - a. Single family detached residential units subject to and consistent with an approved plat.
 - b. Single family attached residential units (common wall structures) not exceeding two dwellings per unit provided they are subject to and consistent with an approved plat.
 - c. Minor revisions or additions to existing structures that are consistent with the provisions of this Ordinance (including but not limited to: conformance, lot requirements, setbacks, building requirements, parking, etc.) provided that the proposed modifications do not exceed thirty (30) percent of the floor area of said structure or ten-thousand (10,000) square feet, whichever is less.
 - d. Accessory structures provided the proposed accessory structure is consistent with the requirements of this Ordinance relating to accessory structures.
 - e. Change in use provided the proposed use is consistent with the requirements of this Ordinance relating to permitted, accessory, and conditional uses.
3. Site Plan as Formal Agreement: All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor, owner and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the City Clerk for their review and approval.
4. Application for Site Plan Approval: Application for site plan approval shall be filed with the City Clerk on an approved form. Unless specifically waived by the City Clerk or designee, the site plan of the subject property shall include the following information (in some instances a certificate of survey prepared by a licensed land surveyor may be required as deemed necessary by the City Clerk, a designee of the City Clerk, and/or City Engineer), as applicable:

- a. Name and address of developer/owner;
- b. Name and address of architect/designer, if required by the City Clerk or designee;
- c. Date of plan preparation and dates and descriptions of all revisions;
- d. Name of project or development;
- e. All proposed improvements, including (unless waived by the City Clerk or designee):
 - i. Required and proposed setbacks;
 - ii. Location, setback, and dimensions of all existing and proposed buildings and structures;
 - iii. Location of all adjacent buildings located within one-hundred (100) feet of the exterior boundaries of the property in question;
 - iv. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles;
 - v. Location, number, and dimensions of proposed loading spaces;
 - vi. Location, width, and setbacks of proposed curb cuts and driveways;
 - vii. Vehicular and pedestrian circulation;
 - viii. Sidewalks, trails, and walkways;
 - ix. Location and type of all proposed lighting, including details of all proposed fixtures;
 - x. Location of recreation and service areas;
 - xi. Location of all proposed outdoor storage including details for screening;
 - xii. Location of all exterior heating, ventilation and air conditioning equipment including details for screening;
 - xiii. Location of rooftop equipment and proposed screening;
 - xiv. Location of proposed fire lanes and fire hydrants;
 - xv. Proposed building exterior materials and color;
 - xvi. Existing and/or proposed sign locations and dimensions;
 - xvii. Existing and/or proposed drainage by contours (two foot maximum);
 - xviii. Location, capacity and proposed ownership of existing and/or proposed stormwater facilities;
 - xix. Existing and proposed landscaping by size and type of plant material;
 - xx. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures; and
 - xxi. Location, size, and type of water and sewer system mains and proposed service connections.
 - xxii. Supplemental Data: Additional information, data and other plans and information as required by the City Clerk or designee may be required including but not limited to:
 - a. Color drawings or renderings and/or sample exterior building materials proposed for all principal and accessory buildings.
 - b. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
 - c. Vicinity map showing the property in relation to nearby highways or major street intersections.
 - d. When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program.
 - e. If applicable, evidence of compliance with federal, state and local pollution and nuisance laws and regulations, including, but not limited to

glare, smoke, dust, odors and noise. The burden of proof for compliance with appropriate standards shall lie with the applicant.

5. **Timeline:** Pursuant to Minnesota Statutes Section 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.
6. **Required Fee:** The applicant shall submit with the required application any/all required fees as established by ordinance related to site plan review. An application shall not be considered complete until the required fee has been paid.
7. **Review Procedures:** The City Clerk or designee shall review completed applications for site plan approval. The site plan review shall be evaluated based on its compliance with the effective Comprehensive Plan or Land Use Plan, provisions of this Ordinance and other applicable City Codes and policies. The City Clerk, designee of the City Clerk, or the Applicant may refer the site plan to the City Council for review and approval.

500.69 Enforcement

Subd.1 Enforcement Agent

This Code is administered and enforced by the City Council or a person designated by the Council, including but not limited to the Zoning Administrator and/or City Clerk Treasurer or his/her designee. It shall be unlawful to violate a provision of this Section of the City Code. The Zoning Administrator, the City Council, and/or an authorized designee may institute in the name of the City of Freeport any appropriate actions or proceedings against a violator.

Subd.2 Enforcement Process

1. **Notification.** For the enforcement of the provisions of this Section, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail, return receipt requested to the property owner of which the violation is taking place. A copy of all zoning violation notices shall be sent to the City Council, the local law enforcement agency, and the City Attorney. All zoning violation notices shall contain the following information:
 - a. A description of the violation that is taking place.
 - b. A picture (if possible) of the violation that is taking place.
 - c. Location and/or address of the property at which the violation is taking place.
 - d. Identification of the Subsection of the City Code that is being violated.
 - e. The date the violation was discovered.
 - f. The steps necessary to correct the violation.
 - g. A deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than sixty (60) days from the date the first notice is mailed.
2. **Correction of the Zoning Violation.** Upon correction of the violation in the manner stipulated by the zoning violation notice at any point during this enforcement process, the City shall take no further enforcement activity with respect to such specific violation incident.
3. **Failure to Correct Zoning Violation – Enforcement Remedies.** Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:
 - a. **Withhold Permits.** The City shall have the authority to withhold or deny any and all

- permits or City approvals until the violation is corrected to the satisfaction of the Zoning Administrator.
- b. Stop Work Order. The City shall have the authority to issue a stop work order on the property in violation.
 - c. Abatement. The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action by the City shall not proceed until after a hearing before the City Council.
 - d. Injunctive Relief. The City shall have the authority to seek an injunction in court to stop any violation of this Section.
 - e. Civil Remedies. The City shall have the authority to institute appropriate civil action including injunctive and other equitable processes to enforce the provisions of this Section and, at the discretion of the civil court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation.
 - f. Assessment. The City shall have the authority to use the provisions of Minnesota Statutes Chapter 429, as amended, supplemented, or replaced from time to time, to assess charges against any property in violation of any of the provisions of this Section, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.
 - g. Criminal Remedies. The City shall have the authority to institute appropriate misdemeanor action or misdemeanor criminal action for a violation of this Section. Any person who violates a provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine and/or imprisonment as provided for under law.
 - h. Cumulative Remedies. The powers and remedies of this Section shall not be individually limited and are not exclusive. The powers and remedies of this Article are cumulative and all power and remedies may apply, and any other remedies allowed under State law. Failure to exercise any remedy shall not be a waiver of that remedy.

500.70 Fees

Subd.1 Payment Required

Any person filing a petition requesting an amendment, appeal, adjustment, conditional use permit, variance or other permit described within this Chapter shall pay a fee according to the schedule established by the City Council.

Subd.2 Amount

1. Fees payable under this Section, and adopted by Ordinance of the City Council, shall be payable at the time of filing a petition and is not refundable.
2. In addition to the fees referenced above and in the event the City incurs professional fees, either legal, engineering or professional planners, or any other cost, including but not limited to, postage and publication expenses, the applicants may be required to reimburse the City for those fees, and the City officials may require a deposit for these fees prior to the final hearing on the application.

500.71 Validity

Should any Section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

500.72 Repeal of conflicting ordinances

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

500.73 Effective date

This ordinance shall become effective immediately upon publication.

Section 505 – Urban and Rural Service Districts

505.01 Policy	1
505.03 Districts	1
Subd.1 Established.....	1
Subd.2 Rural Service District	1
Subd.3 Urban Service District	1
505.05 Tax Capacity District	2
505.07 Amendment.....	2
505.09 Application.....	2

505.01 Policy

The city council has reviewed the use of land in the city and has reviewed the current cost of government services offered to the residents and landowners of the city, the current source of funds for those services, and the current approximate relative benefits to urban and rural land in the city from tax support municipal services. The city council has concluded that it would be desirable to establish an urban service district and a rural service district for the purposes of all municipal property taxes except those levied for the payment of debt service on bonds and judgments pursuant to Minnesota Statutes, Section 272.67.

505.03 Districts

Subd.1 Established

An urban service district and a rural service district exist in the city for the purpose of municipal property taxes except those levied for payment of debt bonds and judgments and interest thereon.

Subd.2 Rural Service District

The following parcels of land in the city comprise the rural service district:

1. Parcel number 54-32021-00
2. Parcel number 54-32028-00
3. Parcel number 54-32085-00
4. Parcel number 54-32051-00

The City Council finds that the land in the rural service district is un-platted and rural in character and none of it is developed for commercial, industrial, or urban residential purposes. The council also finds that all parcels are greater than the 18 acre minimum size established by the council and are utilized as active agricultural farming operations.

Subd.3 Urban Service District

Land in the city other than that included in rural service district is in the urban service district.

505.05 Tax Capacity District

The parcels of land in the rural service district receive approximately 50% of the benefits resulting from tax supported municipal service as compared to parcels of land of like value in the urban service district. Therefore, the tax capacity rate to be levied upon the rural service district lands will be 50% of urban district mill rate.

505.07 Amendment

This Section may be amended to change the above benefit ratio or to add or remove lands from the rural service district. An amendment is not required to remove lands which are to be developed for commercial, industrial or residential uses in accordance with Minnesota Statutes, Section 272.67, subd.5.

505.09 Application

This Section applies to taxes payable in 1986 and subsequent years subject to amendment as provided by law.

Section 600 – Litter

600.01 Definition	1
600.03 Storage	1
600.05 Duties of Owners and Occupants.....	1
600.07 Authorized Storage	1
600.09 Removal of Litter Procedure.....	1
Subd.1 Notice.....	1
Subd.2 Costs	2
Subd.3 Assessment	2

600.01 Definition

For purposes of this section, the term “litter” means:

1. Garbage, junk, refuse and rubbish;
2. Abandoned property in the form of deteriorated, wrecked, or derelict property in unusable condition and left unprotected from the elements. The term “abandoned property” includes, but is not limited to, deteriorated, wrecked, inoperable, unlicensed, or partially dismantled motor vehicles, abandoned motor vehicles, trailers, boats, machinery, refrigerators, washing machines, household appliances, plumbing fixtures, and furniture; and
3. Abandoned motor vehicles as that term is defined in Minnesota Statutes, section 168B.02

600.03 Storage

It is unlawful to throw or deposit litter on private or public property in the city. Abandoned property may be stored on public or private property only in a garage or storage building.

600.05 Duties of Owners and Occupants

The owner, lessee or occupant of private property, whether occupied or vacant, must maintain the property free of litter and must not create an unsightly condition.

600.07 Authorized Storage

Nothing in this section prohibits the storage of litter on private property in receptacles or containers which meet the requirements of section 610 of this code.

600.09 Removal of Litter Procedure

Subd.1 Notice

When litter exists on private property, a notice to remove the litter may be served upon the owner, lessee, or occupant thereof by the city. The notice must be served by registered mail, or

by personal delivery. When the property is occupied, service upon the occupant is deemed service upon the owner; where the property is unoccupied or abandoned, service may be by mail to the last known owner of record of the property. The notice must state:

1. The nature and location of the litter;
2. That the litter must be removed or properly stored within ten days of service of the notice; and
3. That if the litter is not so removed or stored, it will be removed by the city and the cost of such removal assessed against the property.

Subd.2 Costs

The clerk-treasurer must keep a record of all costs incurred by the city in the removal and disposition of litter pursuant to this section, including all administrative costs involved in the service of the notice required by this subsection, and must report such costs to the city clerk-treasurer annually not later than August 1.

Subd.3 Assessment

On or before September 1, of each year the clerk-treasurer must list the total costs incurred by the city under the section against each separate lot or parcel to which they are attributable. The city council will then spread the costs against each property as a special assessment for collection as other special assessments in the following year, all as authorized by Minnesota Statutes, section 429.101.

Section 605 – Noxious Weeds

605.01 Definition of Weeds.....	1
605.03 Nuisance.....	1
605.05 Notice.....	1
605.07 Assessment.....	1
605.09 Weed Inspector	2
610.11 Penalty.....	2

605.01 Definition of Weeds

For purposes of this section the term “weeds” means noxious weeds as defined by state law and all such useless and troublesome plants as are commonly known as weeds to the general public.

605.03 Nuisance

Weeds or growing grass upon any lot or parcel of land in the city in excess of eight inches in height, or which have gone or are about to go to seed, are hereby declared to be a nuisance and dangerous to the health, safety, and good order of the city.

605.05 Notice

When the owner or occupant of a premises permits a nuisance to exist in violation of subsection 640.03, the weed inspector must serve a notice on the owner, occupant, or agent of the owner of the lot or parcel of land ordering the owner or occupant, or agent of the owner of the lot or parcel of land ordering the owner or occupant to have the weeds or grass cut and removed or otherwise eradicated or removed within ten days after the service of the notice. The notice must also state that in event of non-compliance, removal will be done by the city at the owner’s expense. When the owner, occupant, or agent of the owner cannot be found, notice must be sent by registered mail to the person who is listed on the records of the county auditor or county treasurer as the owner. Service is complete with mailing.

605.07 Assessment

If a person fails to comply with the notice within ten days after service, or if the owner, occupant, or agent cannot be found, the weed inspector may have such weeds cut and removed or otherwise eradicated. A record showing the cost of such work attributable to each separate lot or parcel will be delivered by the weed inspector to the city clerk-treasurer. On or before the first day of August of each year, the amount so charged against the lot or parcel of land, together with a description of the premises and the name of last known owner will be reported by the clerk-treasurer to the city council. The council must then spread the costs against each property as a special assessment for collection as other special assessments in the following year, all as authorized by Minnesota Statutes, section 429.101.

605.09 Weed Inspector

The mayor is the weed inspector as provided by law. The mayor may assign the duty to the city maintenance department.

610.11 Penalty

A person who fails or neglects to cut and remove or otherwise eradicate weeds or grass as directed in this section, or who fails, neglects or refuses to comply with the provisions of any notice provided herein, or who violates the provisions of this section, or who resists or obstructs the weed inspector in the cutting, removal or eradication of weeds or grass, is guilty of a misdemeanor each day on which the violation continues is a separate offense.

Section 700 – Franchises

700.01 Various franchises unaffected.....	1
---	---

700.01 Various franchises unaffected

The following franchise ordinances of the city, as they existed on January 1, 1996, are made a part of this code as if fully set forth herein:

1. Ordinance no. 78, granting a franchise to Northern States power Company.
2. Ordinance no. 106, granting a franchise to Leonard Communications, Inc.
3. Ordinance no. 1991-2, granting a franchise to Minnegasco, Inc.

The ordinances listed above, being franchises to various public utilities and other service providers, were unaffected by the adoption of this code and are on file, as originally adopted, in the office of the city clerk-treasurer. Nothing in this section is to be construed as modifying, amending or abridging any term or condition of the franchise described in this section.

Section 705 – Private Drains

705.01 Prohibit Storm Water Disposal into the Sanitary Sewer System.....	1
Subd.1 Order to Stop Discharging.....	1
Subd.2 Sump Pumps	1
Subd.3 Inspecting.....	1
Subd.4 Fine	2
Subd.5 Maintaining Compliance	2

705.01 Prohibit Storm Water Disposal into the Sanitary Sewer System

Subd.1 Order to Stop Discharging

No person shall discharge or cause to be discharged any storm water, groundwater, roof runoff, yard drainage, yard fountain, pond overflow or any substance other than sanitary sewage into the sanitary collection system. No roof runoff, sump pump, swimming pool discharge, or surface water drainage shall be connected to the sanitary sewer system and no building shall hereafter be constructed nor shall any existing buildings be hereafter altered in such a manner that the roof drainage or any other source of discharge or drainage other than sanitary sewer shall connect with the sanitary sewer system inside or outside the building. Any person, firm or corporation having a roof, sump pump, swimming pool discharge, cistern overflow pipe or surface drain now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove same prior to July 1, 2009. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner as described in the next section.

Subd.2 Sump Pumps

All sump pumps shall have a discharge pipe installed to the outside wall of the building with one (1) inch inside minimum diameter. The pipe attachment must be a permanent fitting such as PVC pipe with glued fittings. The discharge shall extend at least five (5) feet outside of the foundation wall and must be directed toward the front yard or rear yard area of the property. Upon availability, the discharge pipe must be connected to an available storm sewer inlet provided by the City. A discharge pipe connected to the storm sewer must be disconnected during any month in which temperatures are expected to cause ground freeze and reconnected upon ground thaw. An alternative on-lot discharge system may be approved by the clerk.

Subd.3 Inspecting

Every person owning improved real estate that discharges into the City's sanitary sewer system shall allow the City employee(s) to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Any person refusing to allow their property to be inspected shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate this Section shall make the necessary changes to comply with this Section and such changes shall be verified by City employee(s).

Subd.4 Fine

A surcharge of (\$75.00) Dollars per month is hereby imposed and shall be added to every sewer billing mailed on and after July 1, 2009, to property owners who are not in compliance with this Section. The surcharge shall be added every month, until the property is in compliance. The imposition of such surcharge shall in no way limit the right of the City to seek an injunction in District Court ordering the property owner to disconnect the non-conforming connection to the sanitary sewer system or from pursuing any other legal remedies available.

Subd.5 Maintaining Compliance

Upon verified compliance with this Section the City of Freeport reserves the right to inspect such property at least yearly to verify compliance herewith.

Section 710 – Wastewater Service Charges

710.01 Purpose.....	1
710.03 Rates and charges.....	1
710.05 Charges billed with water statement	1
710.07 Creation of wastewater service fund.....	1
710.09 Right to shut off water	2
710.10 Lien against property	2
710.13 Charges recoverable in civil suit.....	2

710.01 Purpose

For the purpose of providing funds (i) to meet the costs of operating and maintaining the city wastewater facilities; (ii) for additional improvements such as expansion and extension of wastewater facilities; and (iii) for the payment of principal and interest which may be due on general obligation bonds sold for the purpose of providing finances for construction of wastewater treatment facilities, there is imposed upon each lot, parcel of land, building or premises having any connection with the public wastewater system of the city, or otherwise discharging wastewater, industrial wastes, water or other liquids directly or indirectly into public wastewater system of the city, the wastewater service set forth in this section.

710.03 Rates and charges

The contributors to the wastewater collected by the city must pay the rates and charges set by Appendix I.

710.05 Charges billed with water statement

The clerk-treasurer must compute the amount due to the city for wastewater service charges and render a statement thereof monthly at the same time and on the same bill with the city water statement to the owner or occupant of any premises served by the wastewater system. The statement is due and payable within ten days after statement is issued. Failure to pay within the ten days results in a penalty fixed by appendix I being added to the charges.

710.07 Creation of wastewater service fund

Money received from the wastewater service charge or surcharge must be deposited in a separate fund to be known as the “wastewater service fund.” The money so received must be recorded and paid only for purposes set forth in subsection 710.01.

710.09 Right to shut off water

In case of failure of prompt payment of the rates and charges herein provided, the city may shut off the water after ten days' written notice to the owner or occupant, or both, and opportunity to be heard before the council.

710.10 Lien against property

Charges levied by and pursuant to this section are made a lien upon the corresponding lot, land, or premises served by a connection to the wastewater systems as provided in Minnesota Statutes, section

710.13 Charges recoverable in civil suit.

Charges levied pursuant to this section that have been properly billed to the account of any premises served but not paid may be recovered in a civil action by the city in any court of competent jurisdiction.

Section 715 – Water Service Charges

715.01 Charges	1
715.05 Right to shut off water	1
715.07 Lien against property	1
715.09 Charges recoverable in civil suit.....	1
715.11 Meters	2

715.01 Charges

The consumers of water furnished by the city must pay the rates and charges set by Appendix I. The clerk-treasurer must compute the amount due the city for water provided to the consumer and render a statement thereof monthly to the owner or occupant of the premises served by the water system. The statement is due and payable within ten days after the statement is issued. Failure to pay within the ten days results in a penalty fixed by Appendix I being added to the charges.

715.05 Right to Shut Off Water

In case of failure of prompt payment of the rates and charges herein provided, the city may shut off the water after written notice to the owner or occupant, or both, and hearing and opportunity to be heard.

715.07 Lien Against Property

Each charge levied by and pursuant to this section is a lien upon the corresponding lot, land, or premises served by a connection to the sewer system of the city provided in Minnesota Statutes, section 444.075. Charges on September 30th of each year more than 30 days past due that have been properly billed to the owner, occupant, or lessee of the premises served, will be certified by the clerk-treasurer to the county auditor between the first and 10th days of October of each year. The clerk-treasurer in so certifying the charges to county auditor must specify the amount thereof, the description of the premises served and the name of the owner thereof. The amount so certified will be extended by the auditor on the tax rolls against such premises in the manner as other taxes, and collected by the county treasurer, and paid to the clerk-treasurer, along with other taxes.

715.09 Charges Recoverable In Civil Suit

Charges levied by this section that have been properly billed to the account of any premises served, but not paid, may be recovered in a civil action by the city in any court of competent jurisdiction.

715.11 Meters

All connections to the water system must be metered. The city will supply meters for connection up to 3/4 inches. Meter costs over 3/4 inches must be paid for by the user. Services requiring meters of 1.5 inches or greater must have a compound meter installed.

Section 800 - Sidewalks

800.01 Repair and Maintenance of Sidewalks.....	1
Subd.1 Safety	1
Subd.2 Main Routes.....	1
800.03 Repairs by City	1
800.05 Construction of New Sidewalks.....	2
800.07 Repair of Existing Sidewalks.....	2

800.01 Repair and Maintenance of Sidewalks

Subd.1 Safety

The owner of the property within the city abutting a public sidewalk must keep the sidewalk in repair and safe for pedestrians. The owner and occupant of such property must use diligence to remove snow, ice, dirt, or rubbish from the sidewalk. Snow and ice must be removed within 24 hours after a snow or sleet storm. Sidewalks must be kept free of debris, including the trimming of tree limbs. When there has been an excessive accumulation of snow as determined and declared by the Mayor and Street Commissioner of the City of Freeport, then property owners shall be excused from the 24 hour requirement for removal of snow for such a period of time as determined by the Mayor and Street Commissioner.

Subd.2 Main Routes

In the event there is an excessive accumulation of snow as determined and declared by the Mayor and City Street Commissioner of the City of Freeport, the City Street Department Employee shall be instructed to remove the excessive snow from the boulevards of certain sidewalks which are designated as “main sidewalk routes” so as to permit the property owners to reasonably maintain the sidewalks thereafter. The following are designated as “main sidewalk routes” in the City of Freeport.

1. Main St. E. between 2nd Ave NE & 3rd Ave. NE north side.
2. 2nd St. NE/NW between 3rd Ave. NW and 3rd Ave. NE north
3. 1st Ave. N. between 2nd St. NE and 4th St. NW east side.
4. 2nd Ave. NE between Main St. E and 2nd St. NE west side.

800.03 Repairs by City

If the city council determines that a public sidewalk within the city is unsafe, the council may cause a notice to be served by certified mail or personal service upon the record owner of the property and the occupant, if the owner does not reside within the city or cannot be found therein, ordering the owner to have the sidewalk repaired and made safe within 30 days, and stating that if the owner fails to do so, the city will do so, and that the expenses thereof must be paid by the owner and that if unpaid, it will be made a special assessment against the property concerned. If the sidewalk is not repaired within 30 days after receipt of the notice, the maintenance engineer must report the facts to the council and the council may by resolution

order the maintenance engineer to repair the sidewalk and make it safe or order the work be done by contract in accordance with the law. The maintenance engineer must keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the city clerk-treasurer. The cost of the repairs will be assessed against the property in the manner provided by Minnesota Statutes, section 429.101.

800.05 Construction of New Sidewalks

Where new sidewalk is constructed in an entire block, the city will pay one-third of the entire cost of the project, provided the owners of abutting property pay the balance, and provided further that construction be completed pursuant to specifications approved by the city council.

800.07 Repair of Existing Sidewalks

If the existing sidewalk of an entire block is in need of repair as determined by the city council, the city will pay one-third of the entire cost of repairing or reconstructing this sidewalk, provided the abutting property owners pay the balance, and provided further, that the repair and reconstruction be completed pursuant to specifications approved by the city council.

Section 805 – Street Building Numbering

805.01 Sections	1
805.03 Map	1
Subd.2 Resolving Discrepancies.....	1
Subd.3 Naming	1
805.05 Assignment of numbers	1
Subd.1 Use of Uniform Numbering System	1
Subd.2 Uniformity	2
Subd.3 Location of Numbers	2
Subd.4 Issuance of Number	2
805.07 Numbers	2
805.09 Duty of City Clerk	2

805.01 Sections

For the purpose of establishing a uniform system of names of streets, avenues, and public ways, the city is divided into four sections, NW, NE, SW, SE, with the dividing point being the intersection of C.S.A.H. 11 and County Rd. 157.

805.03 Map

Subd.1 Maps

A map showing all the streets, avenues, and public ways as designated and names follows this subsection.

Subd.2 Resolving Discrepancies

If any part of this section conflict with the map and thereby raise a question of interpretation, or if any omission or apparent error is found the facts must be presented to the city council for its review and decision.

Subd.3 Naming

Streets, avenues, or public ways, laid out and, or opened to public travel must be named in accordance with the system established by this section.

805.05 Assignment of numbers

Subd.1 Use of Uniform Numbering System

Properties or parcels of land within the corporate limits of the city must be identified by reference to the uniform numbering system described in this section.

Subd.2 Uniformity

Numbers must be assigned to houses and buildings in a uniform manner.

Subd.3 Location of Numbers

Each principal building must bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building must bear a separate number.

Subd.4 Issuance of Number

The city clerk-treasurer will issue any property owner, upon request, a number for each building or separate front entrance to the building. The numbers described herein do not mean physical numbers for attachment to a building. The property owner is responsible for obtaining suitable numbers for property identification.

805.07 Numbers

Figures used in numbering must be well formed, neat, legible, and permanent, not less than seven inches in height and easily legible from the street, where the structure is addressed from.

805.09 Duty of City Clerk

The clerk-treasurer is responsible for maintaining the numbering system, recording all numbers assigned on the street map and if necessary make changes in the existing numbering system to provide for a uniform method of numbering. Changes in existing numbers must be reported to the council at its regular council meeting. The council will consider such report, and accept or reject the same with such revisions and amendments as it deems necessary. A copy of this section has been filed in the office of the county recorder for Stearns County, Minnesota. A copy must be available for inspection by the public in the office of the city clerk-treasurer.

Section 810 – Protection of Streets

810.01 Burning	1
810.03 Tractors	1
810.05 Street Openings	1
810.07 Driveways	1
Subd.1 Permit.....	1
Subd.2 Application	2
810.09 Metal Tires	2
810.11 Pulling Vehicles or Objects	2
810.13 Shod Animals.....	2
810.15 Joint liability	2

810.01 Burning

It is unlawful to burn any sweepings, trash, lumber, leaves, straw, paper, grass, or any combustible material upon any street in the city. It is unlawful to scatter any debris of any kind upon said streets and other non-surfaced streets. This section applies to any materials left upon streets caused by overloading of any truck or other vehicle.

810.03 Tractors

Tractors or other vehicles with lugs thereon, or any other type of machinery that is not equipped with rubber tires are prohibited from using bituminous treated streets in the city and whoever drives such vehicle upon the streets whereby the streets are damaged, is guilty of a misdemeanor.

810.05 Street Openings

It is unlawful to make an opening in any street or to disturb, in any way, the surface of any street, or to disturb, in any way, any portion of a street, without first receiving a permit from the city, except that where an emergency situation arises, such as a leak in a gas main, water pipe, or a matter of similar seriousness, and where the public safety requires immediate action, then work may be commenced immediately, but a permit must be obtained as soon after the accident as possible.

810.07 Driveways

Subd.1 Permit

It is unlawful for a property owner to develop or construct an access or driveway from property to any city street or roadway, without first securing a permit from the city. It is unlawful to break or open any curbing for driveway purposes, or use any part of a sidewalk for driveway purposes, without first securing a permit from the city.

Subd.2 Application

Application for a permit is filed with the clerk-treasurer, and must give the size and location of the proposed access or driveway, and describe the manner of restoration that will be made to any street, curb, or sidewalk, as a result of the proposed use or construction. The council may approve or reject the application and may give its approval with considerations attached also as to method of repair which must be followed, the size and location of the access. The council may require payment for any damage which may be anticipated, prior to the issuance of a permit.

810.09 Metal Tires

It is unlawful to move any vehicle on any bituminous surfaced street or roadway in the city, having any metal tire in contact with such street or roadway, except in the case of an emergency.

810.11 Pulling Vehicles or Objects

It is unlawful to pull, drag, operate, or cause to be pulled, dragged on or over any bituminous surfaced street, within the city, any machine, sharp or narrow tired vehicle, trees, stumps, skids, or any object which does or is likely to cause damage to the surface of said street or roadway, or damage the same in any manner.

810.13 Shod Animals

It is unlawful to drive, lead, or cause to be driven, rode, or led, any shod horse, upon and over any bituminous surfaced street or roadway, in the city, when the hoofs of the animals are equipped with shoes or spikes.

810.15 Joint liability

Any person violating any of the terms, requirements, and conditions of this section is liable for all damages which the street or roadway may sustain as a result of such violation; and in the event the driver and operator of such vehicle is not the owner thereof; but is operating, driving, or moving the same with the express or implied permission of the owner, the owner and driver will be jointly and severally liable for any such damage.

Section 900 – Civil Defense

900.01. Municipal Civil Defense Ordinance	1
---	---

900.01. Municipal Civil Defense Ordinance

The model municipal civil defense ordinance set forth as Appendix no.6 to municipal prototype plan of the Minnesota survival plan prepared and published by the State of Minnesota, Department of Civil Defense, three copies of which ordinance are on file in the office of the clerk-treasurer, is adopted as the civil defense ordinance of the city. Every provision contained in the model ordinance is hereby adopted and made a part of this code as fully as if set forth herein.

Section 905 – Open Burning

905.01 Open Burning Prohibited	1
Subd.1 Matter Burned	1
Subd.2 Observed Fire.....	1
Subd.3 Public Property	1
Subd.4 City Streets.....	1
Subd.5 Right to Enter.....	1

905.01 Open Burning Prohibited

Other than recreational campfires, as regulated and defined by the State of Minnesota, open burning is not permitted in the City. It is permissible to burn dried leaves, brush, twigs, and other dried vegetation in a recreational campfire, per State regulation, but only if excessive and unreasonable smoke is not present per City nuisance code.

Subd.1 Matter Burned

It is unlawful to kindle or maintain any fire permitted by this subsection or authorize such fire to be ignited or maintained if the material to be burned consists of anything other than dried leaves, grass clippings, dried vegetation, and twigs.

Subd.2 Observed Fire

A fire authorized by this subsection must be constantly attended by a competent party until such a fire is extinguished and must have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.

Subd.3 Public Property

Fires on public property are expressly prohibited except in the case where duly authorized city employees or any authorized agent of the city does so in the performance of their duty.

Subd.4 City Streets

Fires on the streets are prohibited.

Subd.5 Right to Enter

The fire chief or any other duly authorized agent of the city may enter upon any private property to investigate any open-burning fire. It is unlawful for a person to threaten or interfere with any agent of the city in the performance of those duties.

Subd.6 Penalty

Violations of any of the provisions of this subsection are petty misdemeanors. The third violation and all subsequent violations within a one year period of time are misdemeanors.

Section 910 – Animals and Pets

910.01 Definitions.....	2
910.03 Dogs and Cats	3
Subd.1 Running at Large Prohibited.....	3
Subd.2 License Required	3
Subd.3 Cats	4
Subd.4 Vaccination	4
910.05 Non-Domestic Animals	4
910.07 Farm Animals.....	4
910.09 Impounding.....	4
Subd.1 Running at Large	4
Subd.2 Biting Animals.....	4
Subd.3 Reclaiming.....	5
Subd.4 Fees	5
Subd.5 Unclaimed Animals	5
910.11 Kennels	5
Subd.1 Definition.....	5
Subd.2 Kennels as a Nuisance	6
910.13 Nuisances	6
Subd.1 Habitual Barking.....	6
Subd.2 Damage to Property	6
Subd.3 Cleaning-up Litter.....	6
Subd.4 Other	6
910.13 Seizure of Animals.....	6
910.15 Animals Presenting a Danger to Health and Safety of City.....	7
Subd.1 Diseased Animals	7
Subd.2 Dangerous Animals	7
Subd.3 Designation as Potentially Dangerous Animal	8
Subd.4 Evidence Justifying Designation	8
Subd.5 Authority to Order Destruction.....	8
Subd.6 Procedure	9
Subd.7 Stopping an Attack	9
Subd.8 Notification of New Address	9
Subd.9 Dangerous Animal Requirements.....	9
Subd.10 Basic Care.....	10
Subd.11 Breeding Moratorium	10
Subd.12 Enforcing Officer.....	11
Subd.13 Animal Shelter	11
Subd.14 Interference with Officers.....	11
Subd.15 Violations and Penalties	11

910.01 Definitions

As used in this Ordinance, unless the context otherwise indicates, the following words shall be defined to mean:

1. "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:
2. "Domestic animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
3. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:
 - a. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - b. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - d. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 - e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
 - f. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.
4. "Farm animals" shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.
5. "Cat" shall be intended to mean both the male and female of the felidae species commonly accepted as domesticated household pets.
6. "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
7. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.
8. "At Large" shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

9. "Release Permit" shall mean a permit issued by the Clerk-Treasurer for the release of any animal that has been taken to the Animal Shelter. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by resolution of the City Council, but not less than fifty dollars (\$50.00) the first time an animal is impounded, seventy-five dollars (\$75.00) the second time it is impounded, and one-hundred dollars (\$100.00) for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal's impoundment count to the beginning of the fee scale.

910.03 Dogs and Cats

Subd.1 Running at Large Prohibited

It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to run at large.

Subd.2 License Required

1. Each and Every dog and cat over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog and cat licenses shall be issued by the Clerk-Treasurer upon payment of the license fee. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog and cat owned or kept by him or her. No license shall be granted for a dog or cat which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog or cat is vaccinated. A veterinarian who vaccinates a dog or cat to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog or cat owner for affixing to the license application.
2. It shall be the duty of each owner of a dog or cat subject to this Section to pay to the Clerk-Treasurer the license fee of \$5 as imposed by the Council by resolution.
3. Upon payment of the license fee, the Clerk-Treasurer shall issue to the dog or cat owner a license.
4. The licensing provisions of this Subdivision shall not apply to dogs or cats whose owners are non-residents temporarily within the City, nor to dogs or cats brought into the City for the purpose of participating in any dog or cat show, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.
5. The funds received by the Clerk-Treasurer from all dog or cat license fees shall first be used to defray any costs incidental to the enforcement of this Ordinance; including, but not restricted to, the costs of licenses, impounding, and maintenance of the dogs.

Subd.3 Cats

Cats shall be included as controlled by this Section insofar as running-at-large, pickup, impounding, boarding, and all other areas no different than dogs. All other provisions of this Ordinance except licensing shall also apply to cats unless otherwise provided.

Subd.4 Vaccination

1. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated regularly by a licensed veterinarian for:
 - a. Rabies - with a live modified vaccine bi-annually
 - b. Distemper - annually
2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the Clerk-Treasurer or a peace officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Clerk-Treasurer or peace officer. Failure to do so shall be deemed a violation of this Section.

910.05 Non-Domestic Animals

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits.

910.07 Farm Animals

Farm animals shall only be kept in an agricultural district of the City.

910.09 Impounding

Subd.1 Running at Large

Any animal running at large is hereby declared a public nuisance. The city animal control officer or a peace officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the City office that if the dog or other animal is not claimed within the time specified in Subd.3 below, it will be sold or otherwise disposed of. Except as otherwise provided in this Ordinance, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

Subd.2 Biting Animals

Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Animal Shelter designated by the City Council for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy

and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of Stearns County, Minnesota, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

Subd.3 Reclaiming

All impounded animals shall be kept, with humane treatment and sufficient food and water for their comfort, at the Animal Shelter at least five regular business days, unless the animal is a dangerous animal as defined under 910.15, Subd.2 in which case it shall be kept for seven regular business days or the times specified in 910.15, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council.

Subd.4 Fees

1. Impound Release fee of \$50 for first impound, \$75 for second impound of the same animal, and \$100 for the third and each consecutive impound thereafter. This fee schedule shall be applied per household/pet owner and not per licensed animal.
2. Payment of maintenance costs, as provided by the Animal Shelter, per day or any part of day while animal is in said Animal Shelter either the city shelter or the Tri-County Humane Society. The City fee for boarding is \$8.00 per day.
3. If an animal is unlicensed, payment of a regular license fee of \$5 and valid certificate of vaccination for rabies and distemper shots is required.

Subd.5 Unclaimed Animals

If the animal has not been reclaimed, the City Animal Control Officer may let any person claim the animal by complying with all provisions in this Section, or the animal may be taken to the Tri-County Humane Society to be placed up for adoption, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this Section shall be payable to the Clerk-Treasurer.

910.11 Kennels

Subd.1 Definition

The keeping of five or more dogs or cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel;" except that a fresh litter of pups or kittens may be kept for a period of three months before such keeping shall be deemed to be a "kennel."

Subd.2 Kennels as a Nuisance

Because the keeping of five or more dogs or cats on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of five or more dogs or cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a commercial kennel within the City limits.

910.13 Nuisances

Subd.1 Habitual Barking

It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries.

Subd.2 Damage to Property

It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

Subd.3 Cleaning-up Litter

The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property.

Subd.4 Other

Any animals kept contrary to this Ordinance are subject to impoundment.

910.13 Seizure of Animals

1. Any City Animal Control officer or peace officer may enter upon private property and seize any animal provided that following exist:
2. There is an identified complainant other than the peace officer making a contemporaneous complaint about the animal;
3. The officer reasonably believes that the animal meets either the barking dog criteria set out in 910.13, Subd.1; the criteria for cruelty set out in 910.15, Subd.10; or the criteria for an animal at large set out in 910.01, Subd.8;
4. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
5. The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
6. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
7. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

910.15 Animals Presenting a Danger to Health and Safety of City

If, in the reasonable belief of any peace officer or the City Animal Control Officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the peace officer or City Animal Control Officer may apprehend the animal and deliver it to the Animal Shelter for confinement under 910.09. If the animal is destroyed, a charge of seventy-five dollars (\$75.00) to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with 910.09, Subd.3.

Subd.1 Diseased Animals

1. **Running at Large.** No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal is properly licensed under this Ordinance.
2. **Confinement.** Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in an Animal Shelter by any peace officer or the Animal Control Officer. The City Animal Control Officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the City Animal Officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be responsible for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
3. **Release.** If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

Subd.2 Dangerous Animals

1. **Attack by an Animal.** It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.
2. **Destruction of Dangerous Animal.** The City Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this ordinance.
3. **Dangerous Animal.** An animal which has:
 - a. Caused bodily injury or disfigurement to any person on public or private property; or
 - b. Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
 - c. Exhibited unusually aggressive behavior, such as an attack on another animal; or
 - d. Bitten one (1) or more persons on two (2) or more occasions; or

- e. Been found to be potentially dangerous and/or the owner has personal knowledge of the same; the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- 4. **Potentially Dangerous Animal.** An animal which has:
 - a. Bitten a human or a domestic animal on public or private property; or
 - b. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
 - c. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.
- 5. **Proper enclosure.** Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:
- 6. **Unprovoked.** Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd.3 Designation as Potentially Dangerous Animal

The City Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or a domestic animal as stated in Subd.2, Paragraph 4. When an animal is declared potentially dangerous, the City Animal Control Officer shall cause one (1) owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.

Subd.4 Evidence Justifying Designation

The City Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

- 1. That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd.2, Paragraph 4.
- 2. That the animal has been declared potentially dangerous and such animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd.2, Paragraph 4.

Subd.5 Authority to Order Destruction

The City Animal Control Officer, upon finding that an animal is dangerous, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one (1) or more of the following findings of fact:

- 1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
- 2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

Subd.6 Procedure

The City Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner:

1. The City Animal Control Officer shall cause one (1) owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing before the City Council for a review of this determination.
2. If no appeal is filed, the orders issued will stand or the City Animal Control Officer may order the animal destroyed.
3. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of the City Animal Control Officer or city clerk's office shall be admissible for consideration by the City Council without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the City Animal Control Officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer.
4. No person shall harbor an animal after it has been found by the city animal control officer to be dangerous and ordered into custody for destruction.

Subd.7 Stopping an Attack

If any peace officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd.8 Notification of New Address

The owner of an animal which has been identified as dangerous or potentially dangerous must notify the City Clerk-Treasurer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Subd.9 Dangerous Animal Requirements

1. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:
 - a. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in 910.09, Subd.3;
 - b. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51;
 - c. Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);

- d. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - e. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;
 - f. All animals deemed dangerous by the City Animal Control Officer shall be registered with Stearns County within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the City Clerk-Treasurer.
 - g. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
2. **Seizure.** A peace officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the City and filing it with the district court.
3. **Reclaiming animals.** A dangerous animal seized under paragraph two (2) above, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the City Clerk-Treasurer that each of the requirements under 910.09, Subd.3 above is fulfilled. An animal not reclaimed within fourteen (14) days may be disposed of as provided under 910.09, Subd.5 and the owner is liable for costs incurred in confining the animal.
4. **Subsequent offenses.** If an owner of an animal has subsequently violated the provisions under 910.15, Subd.2 with the same animal, the animal must be seized by a peace officer. The owner may request a hearing as defined in 910.15, Subd.6. If the owner is found to have violated the provisions for which the animal was seized, the City Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of 910.09 Subd.3. If the animal is not reclaimed by the owner within fourteen (14) days after the date of impound the owner is notified that the animal may be disposed of as provided under 910.09, Subd.5. The owner is also liable for the costs incurred in confining, impounding, and disposing of the animal.

Subd.10 Basic Care

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this ordinance.

Subd.11 Breeding Moratorium

Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another male dog or cat.

Subd.12 Enforcing Officer

The Council is hereby authorized to appoint an Animal Control officer(s) to enforce the provisions of this Ordinance. The City Animal Control Officer may, with the consent of the Council, designate assistants.

Subd.13 Animal Shelter

The City Council shall designate an official Animal Shelter to which animals found in violation of this ordinance shall be taken for safe treatment, and if necessary, for destruction.

Subd.14 Interference with Officers

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the Animal Shelter while engaged in such operation. Nor shall any unauthorized person break open the Animal Shelter, or attempt to do so, or take or attempt to take from the Animal Shelter any animal taken up in compliance with this Chapter, or in any other manner to interfere with or hinder peace officers or the City Animal Control Officer in the discharge of his or her duties under this ordinance.

Subd.15 Violations and Penalties

1. **Separate Offenses.** Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this ordinance.
2. **Misdemeanor.** Unless otherwise provided, violation of this ordinance shall constitute a misdemeanor.

Section 915 - Curfew

915.01 Curfew imposed	1
915.03 Responsibility of Parent	1
915.05 Responsibility of Other Persons.....	1
915.07 Penalties	1

915.01 Curfew imposed

No person under the age of 16 years except as provided in subdivision 2, may be on any public grounds or building, place of amusement, entertainment, or refreshment, vacant lot, or any other unsupervised place between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

Exceptions are when the minor:

1. is accompanied by the minor's parent, guardian, or other person having the minor's lawful care, custody, or control;
2. is returning home within a reasonable time after a school activity or an activity of a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the police department by an adult person authorized by the school or religious or voluntary association to do so;
3. is on the way to or from their place of employment; or
4. is upon an emergency errand or other legitimate business directed by the minor's parent, guardian, or other adult having the lawful custody of the minor.

915.03 Responsibility of Parent

A parent, guardian, or other adult having custody and control of a minor under 16 years of age may not knowingly permit the minor to violate the provisions of subsection 920.01.

915.05 Responsibility of Other Persons

Whenever the owner or person in charge or control of any place of amusement, entertainment, refreshment, or other place of business finds any person under the age of 16 in such place in violation of subsection 920.01, the owner or person in charge must immediately order the person under 16 to leave, and if such person refuses to leave, the owner or person in charge must immediately inform the police department of the violation.

915.07 Penalties

Any person under the age of 16 on a street or other place in violation of subsection 915.01 will be ordered to go home immediately. After investigation, if responsible city authorities determine that court action should be initiated, the minor will be dealt with in accordance with juvenile court law and procedure. A minor who is convicted of a violation of this section after the case has been referred for prosecution in the trial court under Minnesota Statutes, section 260.15, and

any person who is convicted of a violation of any provisions of section 2 is guilty of a petty misdemeanor and will be punished by a fine of not to exceed \$100.

Section 920 – Outdoor Solid Fuel Furnaces

920.01 Definitions.....	1
920.03 Outdoor solid fuel furnaces prohibited.	1
920.05 Enforcement.....	1

920.01 Definitions

“Outdoor Solid Fuel Furnaces” means a furnace, stove, or boiler, designed to burn wood or other solid fuels to produce heat for the interior of a building or to heat water used in a building, that is installed either outdoors or in a structure, such as a garage or other accessory structure, not intended for human habitation. Outdoor Solid Fuel Furnaces do not include:

1. stoves, furnaces, boilers, cooking stoves, or fireplaces, designed to burn wood or other solid fuels to produce heat for use exclusively in the interior of the building in which it is installed;
2. stoves, furnaces, boilers, cooking stoves, or fireplaces, designed to burn wood or other solid fuels to heat the water used by the occupants of the building in which it is installed;
3. propane or natural gas-fired fireplace logs, or
4. appliances using wood, charcoal, or propane to grill or cook food.

920.03 Outdoor solid fuel furnaces prohibited.

No person shall install, use, or maintain an Outdoor Solid Fuel Furnace within the City of Freeport.

920.05 Enforcement

The City Council, and their designees, shall enforce the provisions of this Section. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor.

Section 925 – Establishing Fees for Emergency Protection Fire Service

925.01 Purpose and Intent.....	1
925.03 Definitions.....	1
925.05 Parties Affected.....	1
925.07 Rates.....	1
925.09 Billing and Collection.....	2
925.11 Mutual Aid Agreement	2
925.13 Application of Collections to Budget	2

925.01 Purpose and Intent

This ordinance is adopted for the purpose of authorizing the City of Freeport to charge for fire service as authorized by Minn. Stat. §§ 366.011, 366.012, and 415.01.

925.03 Definitions

1. “Fire service” means any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
2. “Fire service charge” means the charge imposed by the City for receiving fire service.
3. “Motor vehicle” means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.
4. “Fire protection contract” means a contract between the City and a town or other city for the City to provide fire service.
5. “Mutual aid agreement” means an agreement between the City and a town or other city for the City’s fire department to provide assistance to the fire department of a town or other city.

925.05 Parties Affected

1. Owners of property within the City who receive fire service.
2. Anyone who receives fire service as a result of a motor vehicle accident or fire within the City.
3. Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

925.07 Rates

Parties requesting and/or receiving services must pay the rates and charges set by Appendix I.

925.09 Billing and Collection

1. Parties requesting and receiving fire services may be billed directly by the City. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.
2. Parties billed for fire service will have 60 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.
3. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.
4. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with property taxes. The county auditor is responsible for remitting to the city all charges collected on behalf of the city. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.
5. False alarms will be billed as a fire call.

925.11 Mutual Aid Agreement

When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

925.13 Application of Collections to Budget

All collected fire charges will be city funds and used to offset the expenses of the City fire department in providing fire services.

Section 1000 – General Provisions

1000.01 Policy and Purpose of Chapter.....	1
1000.03 Fees	1
Subd.1 General.....	1
Subd.2 Other	1
1000.05 Application of Chapter.....	1
Subd.1 General.....	1
Subd.2 Other	1
Subd.3 Conflicts.....	2
Subd.4 Liquor and Beer	2

1000.01 Policy and Purpose of Chapter

By the enactment of this chapter, the city council intends to establish to the maximum degree possible a uniform system for the issuance, revocation, suspension, and renewal of licenses and permits for all activities for which licenses and permits are required by this code. The council also intends that fees for licenses and permits required by this code are those set by this chapter.

1000.03 Fees

Subd.1 General

The fees for the various licenses and permits are adopted by council resolution from time to time and are set out in Appendix I.

Subd.2 Other

City events and city-wide celebrations sponsored by local non-profit/civic organizations in conjunction with the city are exempt from license and permit fees except the on-off intoxication and non-intoxication liquor. The organization obtaining the license must reimburse out-of pocket expenses incurred by the city related to the event.

1000.05 Application of Chapter

Subd.1 General

Where a provision of this code requiring a license or a permit contains no procedures for issuance, revocation, suspension, renewal, or fee, the provisions of this chapter apply.

Subd.2 Other

Where a provision of this code requiring a license or a permit contains procedures for it issuance, revocation, suspension, renewal, or fee, such provisions prevail over this chapter.

Subd.3 Conflicts

Where a direct conflict exists between a license or permit fee set by provision of this code and a fee set by this chapter, the fee set by this chapter applies.

Subd.4 Liquor and Beer

Prior to the increase of the license fees for intoxicating liquor and non-intoxicating liquor both on-sale and off-sale, the council must hold a public hearing on the question of the increase. The clerk-treasurer must mail written notice of the time and date of the hearing to holders of such license at least 30 days prior to the hearing.

Section 1005 – Conduct of Peddlers, Solicitors and Transient Merchants

1005.01 Definitions.....	1
1005.03 Exceptions to Definitions.....	2
1005.05 Licensing; Exemptions.....	2
1005.07 License Ineligibility	4
1005.09 License Suspension and Revocations	5
1005.11 License Transferability	6
1005.13 Registration	6
1005.15 Prohibited Activities	6
1005.17 Exclusion by Placard.....	7

1005.01 Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Non-commercial door-to-door advocate.** A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.
2. **Peddler.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, other personnel property, or services that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.
3. **Person.** Any natural individual, group, organization, corporation, partnership, or similar association.
4. **Professional fundraiser.** Any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, political, social, or other charitable organization.
5. **Regular business day.** Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.
6. **Solicitor.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's

activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

7. **Transient merchant.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

1005.03 Exceptions to Definitions

For the purpose of this section, the terms Peddler, Solicitor, and Transient Merchant shall not apply to: Non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 7. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates:

1. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
2. Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
3. Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
4. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
5. Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
6. Any person participating in an organized multi-person bazaar or flea market.
7. Any person conducting an auction as a properly licensed auctioneer.
8. Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by this or any other city ordinance.

1005.05 Licensing; Exemptions

1. **County license required.** No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minn. Stat. chpt.329, as it may be amended from time to time, if the county issues a license for the activity.
2. **City license required.** Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Section 7.
3. **Application.** An application for a city license to conduct business as a peddler or

transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- a. The applicant's full legal name.
 - a. Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
 - b. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
 - c. Full address of applicant's permanent residence.
 - d. Telephone number of applicant's permanent residence.
 - e. Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
 - f. Full address of applicant's regular place of business, if any exists.
 - g. Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
 - h. The type of business for which the applicant is applying for a license.
 - i. Whether the applicant is applying for an annual or daily license.
 - j. The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of fourteen (14) consecutive days.
 - k. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
 - l. A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
 - m. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.
 - n. Proof of any required county license.
 - o. Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
 - p. A general description of the items to be sold or services to be provided.
 - q. Any and all additional information as may be deemed necessary by the City Council.
 - r. The applicant's driver's license number or other acceptable form of identification.
 - s. The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.
4. **Fee.** All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule ordinance as it may be amended from time to time.
5. **Procedure.** Upon receipt of the application and payment of the license fee, the city clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city

clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under Section 4, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

6. **Duration.** An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this ordinance shall be valid only during the time period indicated on the license.
7. **License to be Carried.** Licenses issued under this Ordinance shall be carried by the licensee or conspicuously posted in his or her place of business and the licensee shall whenever requested show the license to any officer or citizen who demands to see the license.
8. **Professional fundraisers not exempt.** A professional fundraiser working on behalf of an otherwise exempt group or person shall not be exempt from the licensing requirements of this ordinance.
9. **License exemptions.**
 - a. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 - b. No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

1005.07 License Ineligibility

The following shall be grounds for denying a peddler or transient merchant license:

1. The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
2. The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
3. The failure of an applicant to sign the license application.
4. The failure of an applicant to pay the required fee at the time of application.
5. A conviction with the past five (5) years of the date of application for any violation of

any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

6. The revocation with the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
7. When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

1005.09 License Suspension and Revocations

1. **Generally.** Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:
 - a. Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
 - b. Fraud, misrepresentation or false statements made during the course of the licensed activity.
 - c. Subsequent conviction of any offense to which the granting of the license could have been denied under Section 4.
 - d. Engaging in any prohibited activity as provided under Section 8 of this ordinance.
 - e. Violation of any other provision of this ordinance.
2. **Multiple persons under one license.** The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
3. **Notice.** Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
4. **Public Hearing.** Upon receiving the notice provided in part (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

5. **Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this section.
6. **Appeal.** Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

1005.11 License Transferability

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

1005.13 Registration

1. All solicitors and any person exempt from the licensing requirements of this ordinance under Section 3 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.
2. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

1005.15 Prohibited Activities

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

1. Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
2. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
3. Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
4. Conducting business before 8 a.m. or after 8 p.m.
5. Failing to provide proof of license, or registration, and identification when requested.
6. Using the license or registration of another person.
7. Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
8. Remaining on the property of another when requested to leave.
9. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

1005.17 Exclusion by Placard

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

1. At least four inches long.
2. At least four inches wide.
3. With print of at least 48 point in size.
4. Stating “No Peddlers, Solicitors or Transient Merchants,” “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Section 1010 – License Fees

1010.01 License fees.....	1
---------------------------	---

1010.01 License fees

The fees for the various licenses are set out in appendix I.

Section 1015 – Permit Procedures

1015.01 Permits Required.....	1
1015.03 Application for Permit	1
1015.05 Granting of Permits.....	1

1015.01 Permits Required

It is unlawful to engage in any trade, profession, business, or privilege in the city for which a permit is required by any provision of this code without first obtaining a permit from the city in the manner provided in this section.

1015.03 Application for Permit

Application for a permit is made to the clerk-treasurer on forms furnished by the city. The application must contain information as to location, nature, extent, and costs of the proposed structure, work, installation, or other purposes, and other information which the building inspector or other duly authorized persons may require under this code. The application must contain a declaration that the facts and representations therein made are true and correct, which statement must be subscribed to by the person or persons, or officers or agents of a corporation, applying for said permit.

1015.05 Granting of Permits

Upon payment to the city by the applicant of the required fee for any permits, the permit will be issued, except where council approval is required, in which case the clerk-treasurer is authorized to issue such permit after approval is granted by the council. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city clerk-treasurer in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

Section 1100 – Park Regulations

1100.01 General Provisions	1
1100.03 Definitions.....	1
1100.05 Park Hours	1
Subd.1 Exceptions.....	1
1100.06 Prohibitions	2
1100.07 Rules	2
1100.09 Permits and Reservations	2
1100.11 Reasonable Fees.....	2
1100.13 Enforcement.....	2

1100.01 General Provisions

The purpose of this ordinance is to provide for the use of City Parks in such a manner and by such means as will maximize their use and enjoyment by the public, while conserving the scenery.

1100.03 Definitions

1. “Authorized Person/Director” means Stearns County Sheriff’s Dept., Council members, City Clerk, or Maintenance Engineer acting under the direction of the City Council.
2. “Vehicle” is any wheeled conveyance, including skate boards, bicycles, tricycles, roller blades, and snowmobiles, whether motor powered, self-propelled, or animal drawn. The term shall include any trailer of any kind or description, but shall not include wheelchairs.
3. “Pets” shall mean but not be limited to dogs, cats, and horses.

1100.05 Park Hours

Freeport City Park shall be open year around.

Subd.1 Exceptions

1. Freeport City Parks shall be closed from 11:00 p.m. until 6:00 a.m. that following morning.
2. Freeport Lions Park located at 207 7th ST. SE shall be closed from October 30th until April 1st.
3. The use of parks during periods in which they are closed may be had only by permit, specifically allowing use between 11:00 p.m. and 6:00 p.m. the following morning, issued by the City.
4. No one is permitted to be in a park except between the hours of 6:00 a.m. and 11:00 p.m., except as provided in 3.

1100.06 Prohibitions

1. Pets of any kind will not be allowed in City Parks unless such park has a designated area for pets.
2. Vehicles are only allowed in designated parking areas.
3. Glass containers of any kind are prohibited.

1100.07 Rules

All rules and regulations posted in each park shall be considered as part of this ordinance.

1100.09 Permits and Reservations

Permits and reservations may be obtained from the Director. All persons claiming possession of a permit or reservation issued by the Director must be able to produce or exhibit it upon request from any authorized person who shall desire to inspect same for the purpose of enforcing compliance with any ordinance. A person or persons to whom a permit or reservation is issued shall be liable for any loss or damage to park property or facilities by any person or persons from the group they represent.

Permit or reservation permit shall be revoked upon finding of a violation of any rule or ordinance or upon good cause shown.

1100.11 Reasonable Fees

Reasonable fees as established by Appendix I of the Freeport City Code, may be charged for permits.

1100.13 Enforcement

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor.

Section 1200 – Liquor and Beer

1200.01 Provisions of State Law Adopted	1
1200.03 License Required	1
Subd.1 General Requirement	1
1200.05 Application for License.....	2
Subd.1 Form.....	2
Subd.2 Financial Responsibility	2
Subd.3 Temporary On-Sale; Liquor.	2
Subd.4 Temporary On-Sale; Beer.....	3
Subd.5 Special License for Sunday Sales	3
1200.07 Maintaining a License.....	3
Subd.1 Fees	3
Subd.2 Inspections	3
Subd.3 Hours of Operation	3
Subd.4 Display during Prohibited Hours	4
Subd.5 Federal Tax Stamp.....	4
Subd.6 Liquor in Unlicensed Places	4
Subd.7 Minors.....	4
Subd.8 Licensed Places.....	4
Subd.9 Unlawful Sales.....	4
Subd.10 Identification.....	4
Subd.11 Consumption on Premises	4
1200.09 Suspension and Revocation	5
1200.11 Number Limitation of Licenses	5

1200.01 Provisions of State Law Adopted

The provisions of Minnesota Statutes, chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds or licenses, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this section as if set out in full.

1200.03 License Required

Subd.1 General Requirement

A person, except a wholesaler or manufacturer to the extent authorized under state license, may not directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this section. Liquor licenses are of three kinds: “on-sale” and “off-sale” and “on-sale 3.2 Annual”:

1. “On-sale” licenses are issued only to restaurants, hotels, and exclusive liquor stores and permit the sale of consumption of liquor on the licensed premises only.

2. "Off-sale" licenses are issued only to exclusive liquor stores and permit the sale of liquor at retail in the original package, for consumption off the licensed premises only.
3. "On-sale 3.2 Annual" licenses are issued only to restaurants, hotels, and exclusive liquor stores and permit the sale of consumption of liquor on the licensed premises only. Only those that are eighteen (18) years of age or older may serve the beverages covered under this license at such permitted facilities.

1200.05 Application for License

Subd.1 Form

An application for license to see intoxicating liquor must state:

1. the name of the applicant;
2. age of applicant (a license will not be granted to a minor);
3. representations as to applicant's character with such references as the council may require;
4. applicant's citizenship;
5. the type of license applied for;
6. whether a resident and voter of the city;
7. arrests or convictions for any crime or the violation of any city ordinances, and if so, information pertaining thereto;
8. whether applicant is owner of the business;
9. whether the applicant has ever engaged as an employee or owner of a business engaged in selling intoxicating liquor or non-intoxicating liquor;
10. the name and address of the owner of the real estate and personal property that is used in the business;
11. the name and address of every person who has a financial interest in the business.

In addition to containing such information, the application must be in the form prescribed by the liquor control commission, verified and filed with the city clerk-treasurer. It is unlawful to make a false statement in an application.

Subd.2 Financial Responsibility

Prior to the issuance of a license the applicant must file with the city clerk-treasurer satisfactory evidence of adequate financial responsibility in the amount of the insurance coverage and subject to the conditions specified in Minnesota Statutes, section 340A.409. The city must be named as an additional insured on the insurance policies. Operation of a business licensed under this section without having in effect, and having evidence on file with the city of, the financial responsibility required by this subdivision is grounds for revocation or suspension of the license. Companies supplying insurance under this subsection must be admitted and licensed by the Minnesota Insurance Division, Department of Commerce.

Subd.3 Temporary On-Sale; Liquor.

Temporary "on-sale" licenses may be issued pursuant to Minnesota Statutes, section 340A.404, subdivision 10, only to bona-fide clubs to charitable, religious, and non-profit organizations in existence for at least three years for the sale of intoxicating liquor for consumption on the premises only. Licenses issued pursuant to this subdivision must name the organization and the name of the individual member of the organization as the license holder. The person so named is

responsible for properly utilizing the license in conformance with this code and law. Proof of financial responsibility will be required as set forth in subdivision 2.

Subd.4 Temporary On-Sale; Beer

Temporary “on-sale” licenses may be issued pursuant to Minnesota Statutes, section 340A.403, subdivision 2 to a club, or charitable, religious, or non-profit organization for the sale of beer on premises only. Licenses issued pursuant to this subdivision must name the organization and the name of an individual member of the organization as the license holder. The person so named is responsible for property utilizing the license in conformance with this code and law. Proof of financial responsibility will be required as set forth in subdivision 2.

Subd.5 Special License for Sunday Sales

A special license authorizing sale on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, bowling center, or club that has facilities for serving at least 30 guests at one time which has an “on-sale” license. Sunday sales are permitted as early as 10.00 a.m.

1200.07 Maintaining a License

Subd.1 Fees

The annual fees for intoxicating liquor licenses are set forth in Appendix I. Fees must be paid into the general fund for the city. Applications for “off-sale” licenses must be accompanied by a receipt from the city clerk-treasurer for the required annual fee.

Subd.2 Inspections

The licensee must allow any peace officer, health officer, or properly designated officer, or employee of the city to enter, inspect, and search the premises of the licensee during hours without a warrant. Entering licensed premises is permissible as defined by Minnesota Statutes, Section 340.503 Subd.4 or successor statutes.

Subd.3 Hours of Operation

Sale of intoxicating liquor may not be made at any time when the sale of intoxicating liquor is prohibited by state law. All persons, except the licensee, bona fide employees, and law enforcement officers, must be excluded from the licensed premises within 30 minutes after the expiration of the time on any day when intoxicating liquor may be legally sold. The consumption or displaying of intoxicating liquors, on the bar or on the tables, later than 30 minutes after the sales must terminate is prima facie evidence that those present intended to consume same, in violation of this section. The licensee is responsible for the enforcement of this section and failure to do so is a violation of this section whether or not the named licensee or any officer thereof, is physically present when the offense occurs. If the licensee is operating any other lawful business in the building in which the licensed premises is located, intoxicating liquor may not be served, displayed on the tables, or permitted to be consumed on the premises where such other business is conducted during the time when the licensed premises must be closed.

Subd.4 Display during Prohibited Hours

An “on-sale” and "on-sale 3.2 Annual" establishment may not display liquor to the public during hours when the sale of liquor is prohibited.

Subd.5 Federal Tax Stamp

A license may not possess a federal wholesale liquor dealer’s special tax stamp or federal gambling stamp. 1200.23. Restrictions on purchase and consumption.

Subd.6 Liquor in Unlicensed Places

Liquor may not be sold or consumed on a public highway or street, public sidewalk, or in an automobile, or in the downtown city park or parking lot, in the city. It is unlawful to carry an open container of any intoxicating liquor on any public highway or street, public sidewalk, or in an automobile, or in the downtown city park or parking lot.

Subd.7 Minors

It is unlawful to induce a minor to purchase or procure liquor.

Subd.8 Licensed Places

A person to whom the sale of intoxicating liquor is forbidden by state law may not misrepresent the person’s age for the purpose of obtaining intoxicating liquor nor enter any licensed premises in order to procure said beverages, or to consume or purchase, or attempt to purchase, or have another purchase for him, such beverages on licensed premises.

Subd.9 Unlawful Sales

It is unlawful to give, procure, or purchase liquor for any person to whom the sale of intoxicating liquor is forbidden by law. For on-sale 3.2 Annual permits, a drug store may not obtain a license under this code as normally allowed under state statute.

Subd.10 Identification

A person may not refuse to show proper identification to the bartender or police officer when requested to do so. Refusal to do so is a violation of this section, if the person is then in an establishment licensed to sell intoxicating liquor.

Subd.11 Consumption on Premises

Intoxicating liquor sold “on-sale” and "on-sale 3.2 Annual" must be possessed and consumed inside the building where purchased “on-sale”. It is unlawful to possess or consume intoxicating liquor outside the building of an “on-sale” and "on-sale 3.2 Annual" business if the intoxicating liquor was purchased “on-sale”. The licensee is responsible for the enforcement of this provision, and permitting a person possessing intoxicating liquor purchased “on-sale” and "on-sale 3.2 Annual" to leave the building is a violation of this section by the licensee.

1200.09 Suspension and Revocation

The council may either suspend for not to exceed 60 days or revoke a liquor license upon a finding that the licensee has failed to comply with an applicable statute, regulation or ordinance relating to intoxicating liquor. A suspension or revocation is not effective until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, section 15.0418 to 15.0426.

1200.11 Number Limitation of Licenses

The city may grant not more than three “on-sale” or “off-sale” intoxicating liquor licenses at any one time. The city may grant not more than four (4) "on-sale 3.2 Annual" liquor licenses at any one time.

Section 1203 – Adult Establishments

1203.01 Authority, Purpose and Intent	2
Subd.1 Authority	2
Subd.2 Findings of the City Council.....	3
Subd.3 Purpose	4
Subd.4 Reasonable Opportunity	4
1203.03 Definitions.....	4
1203.05 Application of This Ordinance.....	6
Subd.1 Other Laws.....	6
Subd.2 Existing Adult Establishments.....	7
1203.07 Hours of Operation	7
1203.09 Operation.....	7
Subd.1 Off-Site Viewing	7
Subd.2 Prohibition On liquor.....	7
Subd.3 Entrances.....	7
Subd.4 Layout	7
Subd.5 Illumination.....	8
Subd.6 Signs	8
Subd.7 Access by Minors	8
Subd.8 Additional Conditions for Adult Cabarets.....	8
Subd.9 No Nudity	8
1203.11 License Required	8
Subd.1 License Required	8
Subd.2 Existing businesses	8
1203.13 License Application	9
Subd.1 Application	9
Subd.2 Changes.....	10
1203.15 Disqualifications and Requalification.....	10
Subd.1 Issuance of License.....	10
Subd.2 Qualification	10
1203.17 Expiration and Renewal.....	11
Subd.1 Expiration	11
Subd.2 Renewal	11
1203.19 Suspension	11
Subd.1 Causes of Suspension	11
Subd.2 Notice.....	11
1203.21 Revocation	12
Subd.1 Suspended Licenses	12
Subd.2 Causes of Revocation	12
Subd.3 Appeals	12
Subd.4 Granting a License after Revocation	12
1203.23 Procedures for Appeal.....	12
Subd.1 Notice and Hearing	12
Subd.2 Suspension or Revocation.....	13

Subd.3 Non-renewal	13
Subd.4 Prompt Judicial Review	13
1203.25 Posting.....	13
1203.26 Fees	13
1203.27 Inspections	13
Subd.1 Access	13
Subd.2 Refusal to Permit Inspections	13
Subd.3 Exceptions.....	14
1203.29 Transfer of License	14
1203.31 Penalty.....	14
1203.33 Severability	14
Subd.1 Effective Date	14
1203.35 Disqualifications and Requalification.....	14
Subd.1 Disqualification.....	14
Subd.2 Requalification.....	15
1203.37 Expiration and Renewal.....	15
Subd.1 Expiration	15
Subd.2 Renewal	15
1203.39 Suspension	15
Subd.1 Causes of Suspension	15
Subd.2 Notice.....	16
1203.41 Revocation	16
Subd.1 Suspended Licenses	16
Subd.2 - Causes of Revocation	16
Subd.3 Appeals	16
Subd.4 Granting a License after Revocation	16
1203.43 Procedures For Appeal Non-Renewals, Suspensions And Revocations Of An Adult Establishment License Are Governed By The Following:	17
Subd.1 Notice and Hearing	17
Subd.2 Suspension or Revocation.....	17
Subd.3 Non-renewal	17
Subd.4 Prompt Judicial Review	17
1203.45 Posting.....	17
1203.47 Fees	17
1203.49 Severability	18

1203.01 Authority, Purpose and Intent

Subd.1 Authority

The United States Supreme Court has ruled that sexually-explicit speech, including nude dancing is entitled to some level of protection under the First Amendment to the United States Constitution. As a result, municipalities may not ban adult establishments. However, the Supreme Court has ruled that cities may adopt content-neutral zoning and licensing provisions to regulate and control the adverse secondary effects of adult establishments on the community.

Subd.2 Findings of the City Council

The Minnesota Attorney General's Office and the cities of St. Paul, Alexandria, and Rochester, Minnesota, as well as Indianapolis, Indiana; Phoenix, Arizona; Los Angeles, California; Seattle, Washington, St. Croix County, Wisconsin; and Adams County, Colorado; have conducted studies of the impact of adult establishments on their respective communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighbors. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. The City Council of the City of Freeport is relying on the studies, many of which were conducted in larger cities, recognizing that the same or similar adverse impacts could incur in a small city such as the City of Freeport. The findings are based upon the experiences of other cities where such businesses have located. Based on these studies, the City Council makes the following findings regarding the need to regulate adult establishments.

1. Adult establishments have adverse secondary impacts of the types set forth above.
2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by location and licensing requirements.
3. The City may adopt regulations to promote the public health, safety, morals and general welfare.
4. The public health, safety, morals and general welfare will be promoted by regulations governing adult establishments.
5. Adult establishments can contribute to increased criminal activity and police calls in the area in which they are located, taxing law enforcement services.
6. Adult establishments can be used as fronts for prostitution and other criminal activity.
7. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize the risk.
8. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
9. Many members of the public perceive areas within which adult establishments are located as less safe than other areas that do not have such uses.
10. The adverse impact that adult establishments have on the surrounding area diminishes as the distance from the adult establishments increase.
11. A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable regulations on the owners and the operators of the adult establishment. A licensing procedure will place an incentive on the operators to see that the adult establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexual-oriented business, fully in possession and control of the premises and activities occurring therein.
12. The fact that an applicant for an adult license has been convicted of a sexually-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance.
13. The barring of individuals with sexually-related criminal convictions from the management of adult establishments for a period of years serves as a deterrent to and prevents conduct which may lead to the transmission of sexually-transmitted diseases.
14. The general health, safety, and welfare of the community is promoted by prohibiting nudity in adult establishments. This prohibition is based on concerns of potential adverse

effects such as prostitution, the transmission of sexually-transmitted diseases, exposure to minors, obscenity and unsanitary conditions in public places.

15. Small cities experience many of the same adverse impacts of adult establishments present in larger communities.

Subd.3 Purpose

It is the purpose of this Ordinance to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

1. Prevent criminal activity within the City;
2. To allow for efficient and effective law enforcement services in the City;
3. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
4. To locate adult establishments away from residential areas, school, parks, and places of worship;
5. To provide a content-neutral, objective, licensing scheme that allows the City to monitor adult establishments for violations of building and health codes; and
6. Prevent ownership of adult establishments by persons with prior, relevant criminal convictions.

Subd.4 Reasonable Opportunity

The provisions of this Ordinance do not prohibit adult establishments from having a reasonable opportunity to locate in the City. This Ordinance is not for the purpose of, nor is it intended to, impose a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this

Ordinance to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

1203.03 Definitions

1. “Adult Entertainment” means:
 - a) any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicted, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
 - b) any business that engages in any Adult Use as defined in Subdivision 2 of this section.
2. “Adult Use” means any of the activities and businesses described below:
3. “Adult Body Painting Studio.” An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

4. "Adult Bookstore." An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portions of its gross revenues is derived from items, merchandise depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
5. "Adult Cabaret." A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
6. "Adult Companionship Establishment." A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
7. "Adult Conversation/Rap Parlor." A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
8. "Adult Health/Sport Club." A health/sport club that is distinguished or characterized or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
9. "Adult Hotel or Motel." A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
10. "Adult Massage Parlor/Health Club." A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
11. "Adult Modeling Studio." A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified
12. Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
13. "Adult Motion Picture Arcade." Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
14. "Adult Motion Picture Theater." A motion picture theater that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
15. "Adult Novelty Business." An establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise or

- devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical
16. Areas, or items, merchandise or devices that stimulate Specified Sexual Anatomical
 17. Areas, or are designed for sexual stimulation.
 18. “Adult Sauna.” A sauna that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 19. “Adult Steam Room/Bathhouse Facility.” A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing relaxation, or reducing, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 20. “Nude” or “Specified Anatomical Areas” means:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
 - b. Human male genitals in the discernibly turgid state, even if completely and opaquely covered.
 21. “Specified Sexual Activities” means:
 - a. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;
 - b. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed;
 - c. Masturbation or lewd exhibition of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed; and
 - d. Physical contact or stimulated physical contact with the cloth or unclothed pubic areas or buttock of a human male or female, or breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
 22. “Substantial or Significant Portion” means 25% or more.
 23. “Premises” means the real property and all building and structures located on the real property.

1203.05 Application of This Ordinance

Subd.1 Other Laws

No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in the establishment that is prohibited by any ordinance of the

City of Freeport, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

Subd.2 Existing Adult Establishments

Except as otherwise provided in this Ordinance, existing Adult Establishments must comply with all requirements of this Ordinance immediately upon its effective date.

1203.07 Hours of Operation

No Adult Establishment shall be open to the public from the hours of 2:00 a.m. until 10:00 a.m. weekdays and Saturdays, any time after 2:00 a.m. on Sundays, or at any time on national holidays.

1203.09 Operation

Adult Establishments are subject to the following business regulations.

Subd.1 Off-Site Viewing

An Adult Establishment must prevent off-site viewing of its merchandise or any materials depleting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

Subd.2 Prohibition On liquor

1. Adult Establishments shall not sell or dispense intoxicating liquor or 3.2 percent malt liquor nor shall the Adult Establishment be located in a building or on a premises that contains a business that sells or dispenses intoxicating liquor or 3.2 percent malt liquor.
2. The sale and consumption of alcohol is prohibited on the premises of an Adult Establishment, including, but not limited to, any parking areas or lots that are owned or leased by the Adult Establishment or its owner, or used by patrons when they are at the Adult Establishment

Subd.3 Entrances

All entrances to an Adult Establishment, with the exception of emergency fire exits, that are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Subd.4 Layout

The layout of any display areas shall be designed so that the management of the Adult Establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.

Subd.5 Illumination

Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Subd.6 Signs

Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation. An Adult Establishment must prominently display at the entrance of the business, or no more than two feet of the door-opening device of the establishment, a sign that states "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign must contain letters between three-eighths (3/8) inch and two (2) inches in height.

Subd.7 Access by Minors

No minor shall be permitted on the premises of an Adult Establishment. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

Subd.8 Additional Conditions for Adult Cabarets

The following additional conditions apply to adult cabarets:

1. No dancer, live entertainer or performer shall be under 18 years old.
2. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor,
3. No dancer or performer shall fondle, caress, or touch any patron and no patron shall fondle, caress, or touch any dancer or performer,

Subd.9 No Nudity

No person may be nude on the premises of any Adult Establishment.

1203.11 License Required

Subd.1 License Required

It is unlawful for any person or entity to own, lease, rent, manage or operate an Adult Establishment without a valid license issued by the City pursuant to this Ordinance.

Subd.2 Existing businesses

Within ten (10) working days of the effective date of this Ordinance, any existing Adult Establishment must apply for a license from the City. Failure to apply for a license is a violation of this Ordinance and is subject to penalty under section 1203.31. An existing Adult Establishment may continue to operate pending review of the license application by the City.

1203.13 License Application

Subd.1 Application

An application for a license must be made on a form provided by the City. The completed application must contain the following information:

1. All applicants. For all applicants:
 - a. Whether the applicant is a natural person, corporation, partnership, or other form of organization.
 - b. The legal description of the premises to be licensed, along with a sketch or diagram showing the floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 - c. The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minn. Stat. § 333.01 shall be submitted.
 - d. Whether the applicant has had a previous Adult Establishment license suspended or revoked. (b) Applicants who are natural persons. If the applicant is a natural person.
2. The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.
3. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
4. The street and city addresses at which the applicant has lived during the preceding two years.
5. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.
6. Whether the applicant has ever been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses, or Adult Establishments.
- a. Applicants that are partnerships. If the applicant is a partnership:
7. The name(s) and address(es) of the partnership, the name(s) and address(es) of all partners and all of the information concerning each partner that is required of applicants in paragraph (b) of this section.
8. Whether the partnership is general or limited.
9. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. § 333.01, a certified copy of the certificate shall be attached to the application.
10. Corporate or other applicants. If the applicant is a corporation or other organization:
 - a. The name of the corporation or business form, and if incorporated, the date and state of incorporation.
 - b. A true copy of the Certificate of Incorporation, Articles of Incorporation or

- c. Association Agreement and Bylaws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn.
- d. Stat. § 303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the Articles of Organization and any Membership
- e. Agreements shall be attached to the application.
- f. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in paragraph (b) of this section.
- g. Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.
- h. The name of the registered corporate agent and the address of the registered office for service of process.

Subd.2 Changes

Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city clerk-treasurer in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

1203.15 Disqualifications and Requalification

Subd.1 Issuance of License

The City will issue a license to an applicant within 30 days of the application unless one or more of the following conditions exist:

- 1. The applicant is under 18;
- 2. The applicant failed to supply all of the information required on the license application;
- 3. The applicant gives false, fraudulent, or untruthful information on the license application;
- 4. The applicant has been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or Adult Establishments;
- 5. The Adult Establishment is not in full compliance with the Freeport City Code and all provisions of state and federal law;
- 6. The applicant has not paid the required license fee;
- 7. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;
- 8. The applicant is not the proprietor of the establishment for which the license is issued; or
- 9. The Adult Establishment premises holds an intoxicating liquor, beer or wine license.

Subd.2 Qualification

An applicant may qualify for a license:

- 1. After one year has elapsed in the case of a previous license revocation;
- 2. After two years have elapsed since the date of conviction or the date of release from confinement, whichever is later, in the case of a misdemeanor or gross misdemeanor offense;

3. After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or (d) After five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.

1203.17 Expiration and Renewal

Subd.1 Expiration

An Adult Establishment license expires at the end of the calendar year.

Subd.2 Renewal

A licensee may renew a license by completing an application as provided in section 1203.13. The applicant will be allowed to continue business until the City has determined that the applicant meets the criteria for renewal of the license. If the City denies the renewal, the applicant shall not be issued a license for one year from the date of denial.

1203.19 Suspension

Subd.1 Causes of Suspension

The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

1. Violated or is not in compliance with any provision of this Ordinance;
2. Allowed or engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel;
3. Refused to allow an inspection of the Adult Establishment as authorized by this Ordinance; or
4. Knowingly permitted unlawful gambling by any person on the Adult Establishment premises.

Subd.2 Notice

A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the abuses against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application:

1203.21 Revocation

Subd.1 Suspended Licenses

The City may revoke a license if a cause of suspension in section 1203.39 occurs and the license has been suspended at least once before within the preceding 12 months.

Subd.2 Causes of Revocation

The City may revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted to the City during the application process;
2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee has knowingly allowed prostitution on the premises;
4. A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended;
5. A licensee has been convicted of an offense listed in section 1203.35, subd.1(4), for which the time period required in section 1203.35, subd.2 has not elapsed; or
6. Except in the case of an Adult Hotel or Motel, a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

Subd.3 Appeals

The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subd.4 Granting a License after Revocation

When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked due to a criminal conviction under section 1203.35, subd.1(4), an applicant may not be granted another license until the appropriate number of years required under section 1203.35, subd.2, has elapsed.

1203.23 Procedures for Appeal

Non-renewals, suspensions and revocations of an Adult Establishment license are governed by the following:

Subd.1 Notice and Hearing

In the event that the City proposes to not renew, to suspend or to revoke a license, the City will notify the licensee in writing of the basis for the action. The council will hold a hearing for the purpose of determining whether to not renew, to suspend, or to revoke the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to not renew, to suspend or to revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.

Subd.2 Suspension or Revocation

If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action the suspension or revocation is stayed until the conclusion of such action.

Subd.3 Non-renewal

If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal, if the licensee files and serves an action in state or federal court within the 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

Subd.4 Prompt Judicial Review

After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction. The court shall promptly review such action.

1203.25 Posting

The license, if granted, must state on its face the name of the person or entity to whom is granted, the expiration date, and the address of the Adult Establishment. The license must be posted in a conspicuous place at or near the entrance to the Adult Establishment.

1203.26 Fees

The annual license fee for Adult Establishments is \$3,000. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half the regular amount. The fee is non-refundable.

1203.27 Inspections

Subd.1 Access

An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspector, to inspect the premises of an Adult Establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.

Subd.2 Refusal to Permit Inspections

Refusal to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, or building inspector at any time it is occupied or open for business is a violation of this Ordinance. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license.

Subd.3 Exceptions

The provisions of this section do not apply to areas of an Adult Hotel or Motel that are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

1203.29 Transfer of License

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Establishment under the authority of a license at any place other than the address designated in the application.

1203.31 Penalty

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The City may also enforce any provision of this Ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

1203.33 Severability

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

Subd.1 Effective Date

Ordained by the City Council of the City of Freeport this 26th day of April, 2006.

1203.35 Disqualifications and Requalification

Subd.1 Disqualification

The City will issue a license to an applicant within 30 days of the application unless one or more of the following conditions exist:

1. The applicant is under 18;
2. The applicant failed to supply all of the information required on the license application;
3. The applicant gives false, fraudulent, or untruthful information on the license application;
4. The applicant has been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or Adult Establishments;
5. The Adult Establishment is not in full compliance with the Freeport City Code and all provisions of state and federal law;
6. The applicant has not paid the required license fee;

7. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;
8. The applicant is not the proprietor of the establishment for which the license is issued; or
9. The Adult Establishment premises holds an intoxicating liquor, beer or wine license.

Subd.2 Requalification

An applicant may qualify for a license:

1. After one year has elapsed in the case of a previous license revocation;
2. After two years have elapsed since the date of conviction or the date of release from confinement, whichever is later, in the case of a misdemeanor or gross misdemeanor offense;
3. After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or
4. After five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.

1203.37 Expiration and Renewal

Subd.1 Expiration

An Adult Establishment license expires at the end of the calendar year.

Subd.2 Renewal

A licensee may renew a license by completing an application as provided in section 1203.13. The applicant will be allowed to continue business until the City has determined that the applicant meets the criteria for renewal of the license. If the City denies the renewal, the applicant shall not be issued a license for one year from the date of denial.

1203.39 Suspension

Subd.1 Causes of Suspension

The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

1. Violated or is not in compliance with any provision of this Ordinance;
2. Allowed or engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel;
3. Refused to allow an inspection of the Adult Establishment as authorized by this Ordinance; or
4. Knowingly permitted unlawful gambling by any person on the Adult Establishment premises.

Subd.2 Notice

A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the abuses against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application:

1203.41 Revocation

Subd.1 Suspended Licenses

The City may revoke a license if a cause of suspension in section 1203.39 occurs and the license has been suspended at least once before within the preceding 12 months.

Subd.2 - Causes of Revocation

The City may revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted to the City during the application process;
2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee has knowingly allowed prostitution on the premises;
4. A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended;
5. A licensee has been convicted of an offense listed in section 1203.35, subd.1(4), for which the time period required in section 1203.35, subd.2 has not elapsed; or
6. Except in the case of an Adult Hotel or Motel, a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

Subd.3 Appeals

The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subd.4 Granting a License after Revocation

When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked due to a criminal conviction under section 1203.35, subd.1(4), an applicant may not be granted another license until the appropriate number of years required under section 1203.35, subd.2, has elapsed.

1203.43 Procedures For Appeal Non-Renewals, Suspensions And Revocations Of An Adult Establishment License Are Governed By The Following:

Subd.1 Notice and Hearing

In the event that the City proposes to not renew, to suspend or to revoke a license, the City will notify the licensee in writing of the basis for the action. The council will hold a hearing for the purpose of determining whether to not renew, to suspend, or to revoke the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to not renew, to suspend or to revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.

Subd.2 Suspension or Revocation

If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action the suspension or revocation is stayed until the conclusion of such action.

Subd.3 Non-renewal

If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal, if the licensee files and serves an action in state or federal court within the 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

Subd.4 Prompt Judicial Review

After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction. The court shall promptly review such action.

1203.45 Posting

The license, if granted, must state on its face the name of the person or entity to whom is granted, the expiration date, and the address of the Adult Establishment. The license must be posted in a conspicuous place at or near the entrance to the Adult Establishment.

1203.47 Fees

The annual license fee for Adult Establishments is \$3,000. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half the regular amount. The fee is non-refundable. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The City may also enforce

any provision of this Ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

1203.49 Severability

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

Section 1300 – Highway Traffic Regulations

1300.01 State Highway Regulation Act Adopted By Reference.....	1
1300.03 Definitions.....	1

1300.01 State Highway Regulation Act Adopted By Reference

Minnesota Statutes, chapter 169, “The highway traffic act”, is adopted by reference and is as much a part of this code as if fully set forth herein. A violation of chapter 169 as herein adopted is a violation of this code.

1300.03 Definitions

For purposed of this chapter, the terms defined in Minnesota Statutes, section 169.01, as adopted herein, have the meanings given by that section.

Section 1305 – Streets and Traffic

1305.01 Emergency Street Closings	1
Subd.1 Reasons	1
Subd.2 Procedure	1
Subd.3 Temporary Closing	1
Subd.4 Barriers and Warnings	1
Subd.5 Emergency Traffic Restrictions	2
1305.03 Cutting across Public or Private Property	2
1305.05 Unreasonable Acceleration	2

1305.01 Emergency Street Closings

Subd.1 Reasons

In an emergency the city clerk-treasurer, fire chief, or the maintenance engineer may close off any public street, alley, or area to vehicular or pedestrian traffic, including parked cars to reroute traffic when necessary to control or prevent a riot, to fight, or prevent the spreading of a fire, to control or prevent a riot, to fight or fight the spreading of a fire, to control or remove explosives, to repair electrical service, gas, water, or sewer main, or to prevent damage to life, limb, or property that might result from any traffic or other hazard.

Subd.2 Procedure

The maintenance engineer may close off or prohibit vehicular traffic on a public street or alley or portion thereof in order to effect the orderly installation, repair, maintenance, or snow removal of any streets. Prior to closing as street or alley both the fire and police department must be notified.

Subd.3 Temporary Closing

The fire chief, may order the temporary closing off or the temporary designation of one way traffic or to reroute any or all vehicular traffic on any public street, alley, or area when it appears necessary to control vehicular or pedestrian traffic or crowds resulting from any large public gathering, prior to, during, and after a public or private convention, assembly, parade, carnival, circus, political rally, or sports events where the use of public street, park, or other public property is necessary or incidental to the holding or convening of any of the foregoing activities.

Subd.4 Barriers and Warnings

A street or area may be closed to vehicular or pedestrian traffic or to parked cars at any hour by stationing of a police officer at both ends of said street or area, who may then direct traffic, or during the daylight hours by posting or erecting suitable signs, flags, or barriers at both ends of the street area so designated, stating the restriction imposed and by whose authority the restriction is imposed, or at night by placing of suitable barriers and warning lights or flasher signals at both ends of the street or areas so designated. Drivers must obey police officers and barriers, flags, signs, lights, or signals so placed.

Subd.5 Emergency Traffic Restrictions

The fire chief may make and enforce necessary traffic control restrictions in time of emergency, provided that public notice of such restrictions in time of emergency, provided that public notice of such restrictions be published, or broadcast, or posted in at least two public places, and further, that any such restrictions be reviewed by the council at the next regular council meeting, following the establishment of such emergency restrictions, at which time such restrictions may be continued or abandoned by resolution of the council.

1305.03 Cutting across Public or Private Property

It is unlawful to disobey the instructions of an official traffic control device within the meaning to this section, unless at the time otherwise directed by a police officer, by driving into or across public or private property so as to obviate the need to comply with the traffic control device.

1305.05 Unreasonable Acceleration

It is unlawful to start or accelerate any motor vehicle with an unnecessary exhibition of speed on a public or private way within the city limits. Unreasonable squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of the vehicle or both is prima facie evidence of unnecessary exhibition of speed.

Section 1310 – Parking Regulations

1310.01 Weight Restrictions.....	1
1310.03 Parking Zones	1
1310.05 Time Limit Parking.....	1
1310.07 General Time Limit.....	2
Subd.1 General Rule	2
Subd.2 Measure of Time Limit.....	2
1310.09 Prima Facie Violation	2
1310.11 Winter Parking Rules.....	2
1310.13 Penalty.....	2

1310.01 Weight Restrictions

It is unlawful to leave or park on or within the limits of any public street in any residential area in the city, any of the following:

1. A semi-trailer.
2. Overnight parking of a combination vehicle unit in excess of 50 feet in length.
3. A vehicle carrying flammable or hazardous substances which could threaten health and public safety.

1310.03 Parking Zones

The city council may by resolution designate certain streets or portions of streets as no parking, or no stopping, or standing zones, and may limit the hours in which the restrictions apply. The city may mark, by appropriate signs, each zone so designated. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, it is unlawful to stop or park a vehicle in an established no parking or standing zone where stopping or standing is prohibited. A vehicle may not be parked in a “no parking” zone during hours when parking is prohibited, except for the purpose of forming a funeral procession, and a truck may be parked temporarily for a single period of no longer than two hours on any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

1310.05 Time Limit Parking

The council may by resolution designate certain areas where the right to park is limited during hours specified and such areas will be marked by appropriate signs. During the hours specified on the sign, it is unlawful to park a vehicle in a limited parking zone for a longer period than so specified.

1310.07 General Time Limit

Subd.1 General Rule

It is unlawful to park a vehicle upon any street, alley, or way, or in a municipal parking lot in any one place for a continuous period longer than 48 hours.

Subd.2 Measure of Time Limit

A vehicle moved a distance of not more than one block during any limited parking period, is deemed to have remained stationary. It is unlawful to obliterate, erase, or remove any mark or sign placed on a vehicle by a police officer for the purpose of measuring the length of time such vehicle has parked.

1310.09 Prima Facie Violation

The presence of a motor vehicle, trailer, or implement on a public street when standing or parked in violation of this section is prima facie evidence that the registered owner of the vehicle, trailer, or implement did or authorized the violation.

1310.11 Winter Parking Rules

To facilitate snow removal, it shall be unlawful for any vehicle, trailer, or other object to park or remain parked on a public street, alley, or way, or in a municipal parking lot from and including November 1, to and including March 31, between the hours of 2:30 a.m. and 6:00 a.m. during or after any snow fall which accumulates over one-tenth (1/10) of an inch until such time as the snow removal crews have cleared the public street, alley, or way, or municipal parking lot. All vehicles shall be exempt from the winter parking rules from 12:00 A.M. to 11:59:59 P.M. on the following days:

1. Thanksgiving Friday (night of Thursday) through the immediately following Sunday (Example: Someone could park on City roads for Thanksgiving and leave anytime on Sunday. NOTE: The General Rule of 48 hours still applies per 1310.07)
2. December 25 through January 1 (Example: Someone could park on City roads on Christmas Eve and leave anytime on January 1. NOTE: The General Rule of 48 hours still applies per 1310.07).

1310.13 Penalty

Violation of subsection 1310.11 is petty misdemeanor and punishable by fine of \$25.00. A person violating the provisions or other provisions of this section is guilty of a petty misdemeanor and upon conviction will be punished by a fine of not more than \$100.00.

Section 1315 – Sale of Unclaimed Motor Vehicles

1315.01 Abandoned Motor Vehicle Law Adopted By Reference 1

1315.01 Abandoned Motor Vehicle Law Adopted By Reference

Minnesota Statutes, chapter 168B, is adopted by reference and is as much a part of this code as if fully set forth herein. A violation of the statutes adopted herein by reference is a violation of this code.

Section 1320 – Driver’s License and Registration of Motor Vehicles

1320.01 Adoption by Reference	1
Subd.1 Motor Vehicle Registration Act.....	1
Subd.2 Driver’s License Law	1
Subd.3 Violations.....	1

1320.01 Adoption by Reference

Subd.1 Motor Vehicle Registration Act

Minnesota Statutes, sections 168.011, 168.055, 168.056, 168.09, 168.10, 168.11, 168.27, 168.36, 168.39, 168.41, 168.44 are adopted by reference and are as much a part of this code as if fully set forth herein.

Subd.2 Driver’s License Law

Minnesota Statutes, section 171.01, 171.02, 171.03, 171.05, 171.08, 171.09, 171.11, 171.17, 171.18, 171.20, 171.22, 171.23, and 171.24 are adopted by reference and are as much a part of this code as if fully set forth herein.

Subd.3 Violations

A violation of a statute adopted by reference herein is a violation of this code.

Section 1400 – Economic Development Authority Enabling Ordinance

(Revised 12/16/2014; see Section 1405)

1400.01 Definitions.....	1
1400.03 Establishment.....	1
1400.05 Name	2
1400.07 Members	2
1400.09 Administration	2
1400.1 Modification.....	2
1400.13 Report to City Council.....	2
1400.15 Coordinator	2
1400.17 Conflict of Interest	3
1400.19 Budget.....	3
1400.21 Schedule of Powers.....	3
1400.23 General Obligation and Revenue Bonds.....	4
1400.25 City Council Approval Required	4
1400.27 Effective Date	4

1400.01 Definitions

As used in this ordinance, the following terms shall have the following definitions:

1. “Authority” - Means an Economic Development Authority as defined by Minnesota Statutes 460.090 through 469.108.
2. “City” - Means the City of Freeport, Minnesota.
3. “City Council” - Means the duly elected governing body of the City of Freeport, Minnesota.
4. “The Act” - Means Minnesota Statutes 469.090 through 469.108.
5. “Enabling Resolution” - Means this ordinance which establishes the Freeport Economic Development Authority.

1400.03 Establishment

There is hereby created in the City an Economic Development Authority, which, subject to the provisions of the Enabling Resolution, shall have all of the powers, duties, and responsibilities of an Economic Development Authority pursuant to Minnesota Statutes 469.090 and 469.108.

The Authority shall also have the powers of a housing and redevelopment authority contained in Section 369.047. It shall be the role and responsibility of the Authority to carry out economic and industrial development and redevelopment within the City in accordance with such general policies as may from time to time be established by the City council and pursuant to such Bylaws as may be adopted by the Authority with approval of the City Council. It shall confer with other public and private groups on matters relating to business and industrial development and periodically survey the City’s industrial and commercial climate and City’s housing requirements and to report regular to the City Council.

1400.05 Name

The Economic Development Authority created by the Enabling Resolution shall be known as the Freeport Economic Development Authority.

1400.07 Members

The Authority shall consist of seven (7) Members, two (2) of whom must be members of the City Council. The Mayor and City Clerk/Treasurer shall serve as ex-officio Member. The other five (5) Members shall be appointed by the Mayor, upon approval of the City Council. Those initially appointed shall be appointed for terms of two (2), three (3), four (4), five (5), and six (6) years respectively. Thereafter, all Members shall be appointed for six-year terms.

1400.09 Administration

The Authority shall adopt Bylaws and rules of procedure for administration of its affairs. The Bylaws must be approved by the City Council prior to becoming effective.

1. Officers - The Authority shall elect a President, a Vice President, a Secretary, and an Assistant Treasurer on an annual basis. The City Clerk-Treasurer shall serve as the Treasurer. A Member shall not serve as President and Vice President at the same time. The other offices may be held by the same Member. The Office of Secretary need not be held by a Member.
2. Professional Service Contracts - The City, upon recommendation of the Authority, may employ an Economic Development Coordinator. The Authority may employ technical experts and professionals as deemed necessary. Their salaries and duties shall conform to City Council policy and require City Council approval.
3. Duties and Powers - The Officers shall have the usual duties and powers of their offices and such other powers and duties as may be delegated to them by the Authority, the Bylaws and the Act.

1400.1 Modification

All modification to the Enabling resolution must be by written Ordinance and must be adopted after notice is given and a Public Hearing conducted as required for the original adoption of the Enabling Resolution.

1400.13 Report to City Council

The Authority shall submit a written report of its activities and its recommendation for modification of the Enabling Resolution at least annually.

1400.15 Coordinator

The City's Economic Development Coordinator shall attend all meetings of the Authority, shall serve as consultant and advisor to the Authority and shall make periodic reports to the City Council.

1400.17 Conflict of Interest

Except as authorized by Minnesota Statute 471.88, a Member, Officer, or employee of the Authority may not acquire any financial interest, direct or indirect, in any project, or any project, or in any property included or planned to be included in any project, nor shall the person have any financial interest, direct or indirect, in any contract or proposed contract for materials or service to be furnished or used in connection with any project.

1400.19 Budget

Annually, at a time fixed by the City Council, the Authority shall prepare and submit to the City Council a detailed budget. The fiscal year of the Authority shall be the same as the fiscal year of the city. For the Audit, the financial statements of the Authority must be prepared, audited, filed, published, or posted according to City Council policy.

1400.21 Schedule of Powers

The Authority may create and define the boundaries of economic development districts and use the powers granted to carry out economic development in these district upon City Council approval:

1. Acquire Property - The authority may acquire, by lease, purchase, devise or through condemnation proceedings, create economic development in these districts upon City Council approval. Property acquired, leased, owned, controlled, used or occupied by Authority for any of the purposes of Section 469.101 of Minnesota Statutes is for public governmental and municipal purposes and is exempt from taxation by the state or its political subdivisions. The exemption from property taxes only applies while the Authority holds the property for its own use.
2. Options - The Authority may negotiate and acquire options to purchase, sell, or lease property for the purpose of economic development upon City Council approval.
3. Contracts - The Authority may make contracts for the purpose of economic development within the powers given it in the Act and upon City Council Approval.
4. Limited Partnerships - The Authority may become a limited partner in a partnership whose purpose is consistent with the Authority's purpose upon City Council approval.
5. Rights and Easements - The Authority may acquire rights or easements for a term of years or perpetually for development of an economic development district or project upon City Council approval.
6. Receive Public Property - The Authority may accept land, money, or other assistance, whether by gift, grant, loan, or otherwise, in any form from the federal, state, local government, any agency of either or a local division of state government.
7. Public Facilities - The Authority may operate; maintain a public parking facility, housing facility, or other public facilities to promote economic development in the City upon City Council approval.
8. Other Powers - The Authority shall have such other powers as authorized and described in this Act.

1400.23 General Obligation and Revenue Bonds

The Authority may issue General Obligation Bonds or Revenue Bonds after first receiving the approval and authorization by four-fifths (4/5ths) vote of the entire City Council and in accordance with the provisions of the Act.

1400.25 City Council Approval Required

Notwithstanding any provisions contained herein, the Authority shall not exercise any of the powers enumerated herein or specified by the Act, without prior approval of the City Council.

1400.27 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

Section 1405 – Economic Development Authority Bylaws

(Revised 12/16/14)

1405.01 Purpose.....	1
1405.03 Office and Boundaries	1
1405.05 Members	1
1405.07 Officers	2
1405.09 Subcommittees.....	3
1405.11 Attendance and Expenses	3
1405.13 Finance and Administration.....	3
1405.15 Powers.....	3
1405.17 Limits of Power.....	4
1405.19 Annual Report and Budget.....	4
1405.21 Notices	4
1405.23 Staff.....	4
1405.25 Amendment of Bylaws	5
1405.27 Miscellaneous	5

1405.01 Purpose

The Freeport Economic Development Authority is a public body politic and corporate and a political subdivision of the State of Minnesota. The primary purpose of the Authority is to serve as an Economic Development Authority pursuant to Minnesota Statutes 469.090 through 469.108. Provisions of Minnesota Statutes, the Enabling Resolution (Ordinance No. 1998-5-26), any modifications, which may be adopted, and the Bylaws of the Authority shall govern the Authority. The purpose of the Authority is to promote commercial and industrial development in the City of Freeport, Stearns County, and State of Minnesota, hereinafter referred to as the “City”.

1405.03 Office and Boundaries

The principal office shall be in the City Council Chambers at 125 Main Street East in the City. The Authority may also have offices at such other locations as Members of the Authority shall determine and upon approval by the Freeport City Council. The territory in which operations of the Authority are principally to be conducted consists of the City.

1405.05 Members

1. The management of all the affairs, property and business of the Authority shall be vested in the members of five (5) persons, with (1) Member being of the City Council.
2. Members shall be appointed for four-year terms.
3. The Members may exercise all of the powers of the Authority and do all such lawful acts and things as are required or permitted to be done pursuant to law, the Enabling

Resolution or pursuant to the Bylaws, subject, however, to the approval of the City Council.

4. Meetings of the Authority shall be held at least quarterly in the principal office of the Authority in the City or at such other place as the Members may establish from time to time. A calendar of Meetings shall be set at the first meeting of the year. At least three (3) days written notice of such meetings shall be given to members.
5. Special Meetings of the Authority may be called at any time by the President or, in their absence, by the Vice-President or by two (2) Members as per Minn. Stat. §412.191 Subd.2.
6. All vacancies on the Authority shall be filled by Board appointment upon approval of the City Council. A Member selected to fill any vacancy shall hold office for the balance of the unexpired term to which appointed.
7. A quorum at all meetings of the Authority shall consist of a majority of all the Members. Less than a quorum may, however, adjourn any meeting, which may be held on a subsequent date without further notice provided a quorum is present at such deferred meeting.
8. Compensation for attending meeting and actual expense shall be set by the City Council.
9. All meetings of the Authority shall be open to the public.
10. Members shall be limited to 2 term limits

1405.07 Officers

1. The Officers of the Authority shall be a President, Vice-President, and Secretary/Treasurer. The City Clerk/Treasurer shall serve as the Secretary/Treasurer. The other Officers shall be elected to one-year terms. They shall hold the office until their successors are elected and are qualified. The President and Vice-President, shall be Members of the Authority. The Secretary/Treasurer need not be a Member of Authority and shall be appointed by the Members.
2. The President shall preside at all meetings of the Authority and govern such meetings in accordance with Roberts Rules of Order, Revised Edition.
2. The Vice-President shall exercise the functions of the President during the absence or disability of the President.
3. The Secretary shall issue notice for all meetings of the Authority called at the request of the
4. The Secretary shall keep minutes of all meetings, shall have charge of the Authority books and shall make such reports as required by the Authority and the City Council.
5. The Treasurer shall perform all duties incident to the office, which are properly required to the Treasurer by the Authority as set forth in Minnesota Statute 469.096. Subd 4.
6. In the case of the absence or the inability to act of any Officer of the Authority, the Authority may delegate the powers or duties of such Officers to any other Officer or any Member whom it may elect.
7. The fees, if any, of all contracted agents of the Authority shall be fixed by the Members and approved by the City Council.

1405.09 Subcommittees

1. The Authority may appoint Subcommittees to assist in carrying out the functions of the Authority, such as Finance, Sites and Buildings, Public Information, Business and Community Contact, Community Revitalization.
2. The Authority may define the specific duties and responsibilities of each Subcommittee.

1405.11 Attendance and Expenses

1. Any Member who is absent from three (3) consecutive duly called meetings of the Authority shall be deemed to have resigned unless the President so notes such explanation in the records of the Authority.
2. Members and Officers shall be entitled to reimbursements for all expenses incurred in attendance at meetings and in the performance of duties on the behalf of the Authority as established in the City's Expense Policy.

1405.13 Finance and Administration

1. The funds of the Authority are public funds and shall be deposited in the City's Official Depositories. All disbursements of funds shall be by check signed by the Mayor and City Clerk/ Treasurer.
2. The Authority fiscal year shall be the same as the City's fiscal year.
3. The nature, number, and qualification of the staff required by the Authority to conduct its business according to these Bylaws shall comply with Minnesota Statutes 469.097.
4. The books and records of the Authority shall be kept at the Authority office of the City.
5. The purpose of the Authority shall be limited to promoting commercial and industrial development of the City and to provide a supply of adequate, safe, and sanitary dwellings for the City.

1405.15 Powers

The Authority may exercise the powers described in this Article, subject, however, to the prior approval of the City Council.

1. The Authority may exercise all of the powers contained in the Act, Minnesota Statutes Chapter 469.090 through 469.108.
2. The Authority may exercise all the powers contained in the Housing Act, Minnesota Statutes Chapter 462.
3. The Authority may exercise all of the powers of an agency contained in the Development Act, Minnesota Statutes, Chapter 472A.
4. The Authority may exercise all the powers of a redevelopment agency contained in the Industrial Bond Act, Minnesota Statutes, Chapter 474
5. The Authority may exercise all of the powers of a City contained in the Housing Finance Act, provided authorized to do so by Ordinance of the City Council to Section 462.C.02, Subdivision 6 of the Housing Finance Act.
6. The Authority may exercise such powers of an Authority contained in Tax Increment Act, Minnesota Statutes, Chapter 472.
7. The Authority may exercise such powers of an Authority contained in Minnesota Statutes

8. 469.001 to 469.047 (Housing and Redevelopment Authority)
9. The Authority may exercise such powers as may be contained in other laws applicable to economic development authorities not specifically described herein.

1405.17 Limits of Power

1. The Authority shall not exercise any powers without prior approval of the City Council.
2. All official actions of the Authority must be consistent with the adopted Comprehensive Plan of the City.

1405.19 Annual Report and Budget

1. The Authority will have available for the City's Auditor, a summary of the preceding year's revenues and expenditures within thirty (30) days after the close of the fiscal year to allow the Auditor to proceed in a timely manner in preparing an annual fiscal report.
2. The Authority shall prepare an annual report describing its activities and providing an accurate statement of its financial condition, together with additional matters and recommendations it deems advisable for the economic development of the City. The report shall be prepared and submitted to the City by February 1st of each year.
3. The Authority shall prepare an annual budget projecting anticipated expenses and sources of revenue. The report shall be prepared and submitted to the City annually.

1405.21 Notices

1. Whenever the provisions of the Minnesota Statutes or these Bylaws require notice to be given to a Member or Officer, such notice shall be given, in writing, by depositing the same in the U.S. Mail, postage prepaid, addressed to the address of such Member at their residence as the same appears in the records of the Authority. The time of the mailing said notice shall be deemed the time of giving such notice.
2. A waiver of any notice in writing signed by a Member, whether before or after the time stated in said waiver for holding a meeting shall be deemed equivalent to a notice required to be given to any Member.

1405.23 Staff

1. The City, upon recommendation of the Authority, may employ an Economic Development Coordinator. The Authority may employ other technical experts and agents as it may require and determine their duties, qualifications and compensation, subject to approval of the City Council.
2. The Authority may contract for the services of consultants, agents, public accountants and other persons needed to perform its duties and exercise its power with prior City Council approval.
3. The Authority may use the services of the City Attorney or general council as determined by the Members of the City Council.

1405.25 Amendment of Bylaws

Alterations, amendments or repeal of the Bylaws may be made by a majority vote at any meeting, if the notice of such meeting contains a statement of the proposed alteration, amendment or repeal. Notice of any alteration, amendment or repeal of the Bylaws shall be given in writing to each Member at least ten (10) days prior to the meeting at which said proposed alteration, amendment or repeal shall be considered. All amendments shall be subject to the approval of the City Council.

1405.27 Miscellaneous

Except as authorized in Section 471.88, a Member, Officer or employee of the Authority must not acquire any financial interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall the person have any financial interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. Furthermore, members of the Authority shall comply with the City Code of Conduct.

Section 2000 – Misdemeanors

2000.01 Conduct Prohibited	1
2000.03 Provisions of Criminal Code Adopted By Reference	1
2000.05 Violation	2
2000.07 Disorderly Conduct	2
2000.09 Resisting a Public Officer	2
2000.11 False statements	2
2000.13 Loitering.....	2
Subd.1 Prohibited.....	2
Subd.2 Police Order	3
2000.15 Fire Alarm System and False Alarms	3
2000.17 Obstruction of Fire Hydrants	3
2000.19 Liquor and beer in public places	3
Sub.1 Parks	3
Subd.2 Public Ways	3
Subd.3 Parking Areas.....	3
2000.21 Trespassing: notice.....	4
Subd.1 Notice of Trespass	4

2000.01 Conduct Prohibited

It is unlawful to engage in any act or in the behavior prohibited by this section. Violation of a provision of this section is a misdemeanor and may be punished as provided in Section 115 of this code.

2000.03 Provisions of Criminal Code Adopted By Reference

The provisions of Minnesota Statute, chapter 609, as set forth in this subsection, are hereby adopted by reference and are as much a part of this code as if fully set forth herein.

1. Section 609.221, 609.223, 609.223, 609.2231, and 609.224, “Assault in first to fifth degree”
2. Section 609.51, “Simulating legal process”
3. Section 609.52., “Theft”
4. Section 609.505, “Falsely reporting a crime”
5. Section 609.535, “Issuance of dishonored checks”
6. Section 609.545, “Misuse of credit card to secure services”
7. Section 609.576, “Negligent fires; dangerous smoking”
8. Section 609.605, “Trespass”
9. Section 609.66, “Dangerous weapons”
10. Section 609.68, “Unlawful deposit of garbage, litter, or like”
11. Section 609.705, “Unlawful assembly”
12. Section 609.715, “Presence at unlawful assembly”

13. Section 609.72, “Disorderly conduct”
14. Section 609.75 “Gambling; definitions”
15. Section 609.755, “Acts of or relating to gambling”.

2000.05 Violation

A violation of the statutes adopted by reference herein is a violation of this code.

2000.07 Disorderly Conduct

The following acts are disorderly conduct:

1. lurking, lying in wait, or concealment in any building, yard, or street within the city with intent to do mischief, or to pilfer, or to commit any crime or misdemeanor therein;
2. willfully disturbing any meeting not unlawful in its character, or the peace and quiet of any family or neighborhood;
3. willfully and lewdly exposing one’s person or one’s private parts, or procuring another to so expose oneself, and any open and gross lewdness or lascivious behavior, or any act of public indecency;
4. using profane, vulgar or indecent language in or about any public building, store, place of public entertainment, or place of business, or upon any of the streets, alleys, sidewalks, or parks of the city so as to be audible and offensive;
5. appearing upon any public street or other public places in an intoxicated condition or drinking intoxication liquor on any street or a vehicle upon a public street;
6. unlawfully striking or in any unlawful manner offering to or doing any bodily harm to another person or unlawfully making an attempt to apply any degree of force or violence to the person of another, or in a violent, rude, angry, or insolent manner touch or lay hands upon the person of another;
7. willfully making a false report to a police officer in the performance of his official duties;
8. discharge of firearms/BB guns.

2000.09 Resisting a Public Officer

It is unlawful to willfully resist, delay, or obstruct a public officer in discharging or attempting to discharge a duty of the officer’s office.

2000.11 False statements

It is unlawful to make a false statement in an application for a permit or license from the city.

2000.13 Loitering

Subd.1 Prohibited

It is unlawful to loiter, loaf, wander, stand, or remain idle either alone or in consort with others in a public place in such manner as to:

1. Obstruct any public street, public highway, public sidewalk, or any other public place or any building generally open to public patronage, by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians;
2. Commit in or upon any public street, public highway, public sidewalk, or any other public place, or any building generally open to public patronage, any act or thing which is an obstruction or interference to the free uninterrupted use of property or with any business lawfully conducted by any one in or upon or facing or fronting on any such public street, public sidewalk, or any other public place, or building, all of which prevents the free uninterrupted ingress, egress, and regress therein, thereon, and thereto.

Subd.2 Police Order

If a person causes or commits a condition enumerated in subdivision 1, a police officer or any law enforcement officer may order that person to stop causing or committing such conditions and to move on or disperse. A person who fails or refuses to obey such orders is guilty of a violation of this subsection.

2000.15 Fire Alarm System and False Alarms

It is unlawful to tamper with or in any way interfere with any element of any fire alarm system within the city. It is unlawful to give, or cause to be given, any alarm or fire, or other emergency condition when no fire or emergency condition exists.

2000.17 Obstruction of Fire Hydrants

It is unlawful to park a vehicle in such a way as to obstruct a fire hydrant. The stopping or parking of a vehicle within ten feet of a fire hydrant is an obstruction of the hydrant and a violation of this subsection.

2000.19 Liquor and beer in public places

Sub.1 Parks

It is unlawful to bring into, possess, barter, give away, or consume any intoxicating liquor or non-intoxicating malt beverages in any public park or any vehicle parking area immediately adjoining such park.

Subd.2 Public Ways

It is unlawful to consume, barter, or give intoxicating beverages or malt beverages in or upon a public street, avenue, boulevard, alley, or other public way, whether in a vehicle or not, in the city.

Subd.3 Parking Areas

It is unlawful to consume, barter, or give any intoxicating beverages or non-intoxicating malt beverages in or upon a parking area open to the public whether in a vehicle or not.

2000.21 Trespassing: notice

Subd.1 Notice of Trespass

1. On premises privately owned but open to the use of the general public, it is unlawful to remain on the premises after having been requested to leave by the owner of the premises, an authorized representative of the owner, or any other person or entity entitled to possession of the premises.
2. Any person receiving a written notice of trespass prohibiting the person from returning the person from returning to the property from the property owner, an authorized representative of the owner, any person or entity entitled to possession of the property, or law enforcement official, is effective for two years from the date the written notice was served.
 - a. Written notice must be personally served upon the party prohibited from entering the property. An affidavit of service must be executed at the time of service. A prosecution may not be maintained unless the property owner or other complaining party can produce a copy of the notice of trespass and a signed affidavit of its service.

Section 2010 – Public Nuisances

2010.01 Public Nuisances Affecting Health.....	1
2010.03 Public Nuisances Affecting Morals and Decency	1
2010.05 Public Nuisances Affecting Peace and Safety	2
2010.07 Duties of City Officers.....	3
2010.19 Abatement.....	3
Subd.1 Notice.....	3
Subd.2 City Council Action.....	4
Subd.3 Emergency Procedure; Summary Enforcement.....	4
2010.11 Recovery of Cost.....	5
Subd.1 Personal Liability.....	5
Subd.2 Assessment	5

2010.01 Public Nuisances Affecting Health

Whoever by his act or failure to perform a legal duty intentionally maintains or permits any of the following conditions is guilty of maintaining a nuisance affecting the health, comfort and repose of the public, which is a misdemeanor:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter;
2. All diseased animals running at large;
3. All ponds or pools of stagnant water;
4. Carcasses of animals not buried or destroyed within 24 hours after death;
5. Unreasonable accumulations of manure, refuse or other debris;
6. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
7. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
8. All noxious weeds and other rank growths of vegetation upon public or private property;
9. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
10. All public exposure of people having a contagious disease;
11. Any offensive trade or business as defined by law not operating under local license.

2010.03 Public Nuisances Affecting Morals and Decency

Whoever by his act or failure to perform a legal duty intentionally maintains or permits any of the following conditions is guilty of maintaining a public nuisance affecting morals and decency, which is a misdemeanor:

1. All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
2. Betting, bookmaking, and all apparatus used in those occupations;
3. All house kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

4. All places where intoxicating liquors is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;
5. Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

2010.05 Public Nuisances Affecting Peace and Safety

Whoever by his act or failure to perform a legal duty intentionally maintains or permits any of the following conditions is guilty of maintaining a public nuisance affecting peace and safety, which is a misdemeanor:

1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
2. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
3. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
5. The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat motor vehicle, motorcycle, all-terrain vehicle, snowmobile or any recreational devices except through a muffler or other device that effectively prevents loud or explosive noises there-from and complies with all applicable state laws and regulations;
6. The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section;
7. The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property;
8. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds, except under conditions as are permitted by Freeport City ordinance or other applicable law;
9. Radio aerials or television antennae erected or maintained in a dangerous manner;
10. Any use of property abutting on a public street or sidewalk any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
11. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by Freeport City ordinance and other applicable laws;

12. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
13. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
14. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
15. Waste water cast upon or permitted to flow upon streets or other public properties;
16. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, discarded or disused lumber or other building materials, wood, brush, yard waste, or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;
17. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
18. Obstruction of the free flow of water in a natural waterway or a public street, drain, gutter or ditch with trash or other materials;
19. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
20. The depositing of garbage or refuse on a public right-of-way or on adjacent property;
21. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
22. All other conditions or things which are likely to cause injury to the person or property of anyone.
23. Nothing in this section prohibits: i. the storage of machinery, auto bodies, or household appliances within a non-residential building, or ii. the storage in the open of lumber, building materials, or wood that is:
 - a. kept a minimum of 12 inches above the ground or other surface, and
 - b. fully screened so as not to be visible from any adjoining properties, public street, right-of-way, or sidewalk.

2010.07 Duties of City Officers

The City Clerk, Building Official, or Peace Officer, shall enforce the provisions relating to nuisances. Any City Official or peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of nuisances.

2010.19 Abatement

Subd.1 Notice

1. Whenever the City Clerk, Building Official, or a peace officer determines that a public nuisance is being maintained or exists on a premises within the City, the City Clerk, Building Official, or peace officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated and abated.

2. A Notice of Violation shall specify the steps to be taken to abate the nuisance, the time within which the nuisance is to be abated, and that if the Notice of Violation is not complied with within the time specified, the matter shall be reported to the City Council (during which time a hearing would be held).
3. A Notice of Violation shall be served by the City Clerk, Building Official, or a peace officer on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept the Notice of Violation, the Notice of Violation shall be served by posting it on the premises.

Subd.2 City Council Action

1. The City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the Notice of Violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may seek injunctive relief by serving a copy of the City Council Order and a Notice of Motion for Summary Enforcement.
2. Except for those cases determined by the City to require summary enforcement, written notice of any City Council Order shall be served as provided in Minnesota Statutes Section 463.17 (Hazardous and Substandard Building Act).
3. Written notice of any Motion for Summary Enforcement shall be served as provided in Minnesota Statutes Section 463.17 (Hazardous and Substandard Building Act).

Subd.3 Emergency Procedure; Summary Enforcement

1. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth above will permit a continuing nuisance to unreasonably endanger the public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the City Clerk, Building Official, or a peace officer shall determine that a public nuisance exists or is being maintained on a premises within the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The City Clerk, Building Official, or peace officer shall notify in writing the occupant or owner of the premises of:
 - a. the nature of the nuisance,
 - b. the City's intention to seek summary enforcement, and
 - c. the time and place of the City Council meeting to consider the question of summary enforcement.
2. If the City Council determines the condition identified in the notice to the owner or occupant is a nuisance, and the public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedures set forth above, the City Council may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
3. Nothing in this ordinance shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

2010.11 Recovery of Cost

Subd.1 Personal Liability

The owner of a premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

Subd.2 Assessment

If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges, as well as other charges for current services to be assessed under Minnesota Statutes Section 429.101, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Section 2015 – Conduct In or Around School Buildings

2015.01 Defacement of School Property	1
2015.03 Breach of Peace On, Or Adjacent To School Grounds.....	1
2015.05 Offensive Language and Conduct.....	1
2015.07 Improper Conduct While School in Session	1

2015.01 Defacement of School Property

It is unlawful to mark with ink, paint, chalk, or other substances, or post hand bills on, or in any other manner deface or injure any public or private school building or structures used or usable for school purposes within the city, mark, deface, or injure fences, trees, lawns, or fixtures appurtenant to or located on the site of such buildings, or post hand bills on such fences, trees, or fixtures, or place a sign anywhere on any such site.

2015.03 Breach of Peace On, Or Adjacent To School Grounds

It is unlawful to willfully or maliciously make or assist in making on any school grounds adjacent to any school building or structure any noise, disturbance, or improper division, or activity which peace, quiet, and good order is disturbed.

2015.05 Offensive Language and Conduct

It is unlawful to use offensive, obscene, or abusive language or engage in boisterous or noisy conduct tending reasonably to arouse alarm, anger, or resentment in others on school grounds, or in buildings, or structures.

2015.07 Improper Conduct While School in Session

It is unlawful to, in any school room, or in any building, or on the grounds adjacent to the same, disturb, or interrupt the peace and good order of the school while in session. A person not in immediate attendance in the school and being in such building or upon the premises belonging thereto who conducts or behaves improperly, or who upon the request of a teacher of such school or the person in charge thereof to leave said building or premises, neglects, or refuses so to do, is in violation of this section. It is unlawful to loiter on school grounds, or in school buildings, or structures.

Section 2020 – Nuisances; Shade Tree Disease Control

2020.01 Declaration of policy.....	1
2020.03 Definitions.....	1
2020.05 Tree inspector.....	2
Subd.1 Position Created.....	2
Subd.2 Duties of Tree Inspector	2
2020.07 Shade tree disease program.....	2
2020.09 Shade tree diseases.....	2
Subd.1 Nuisances Declared	2
Subd.2 Abatement.....	3
2020.1 Inspection and investigation	3
Subd.1 Annual Inspection.....	3
Subd.2 Entry on Private Premises.....	3
Subd.3 Diagnosis	3
2020.13 Abatement of Shade Tree Disease Nuisances.....	3
2020.15 Procedure for Removal of Infected Trees And Wood	3
Subd.1 Findings	3
Subd.2 Notice; Hearing.....	4
Subd.3 Records	4
Subd.4 Assessment	4
2020.17 Tree Inspector; Program	4
2029.19 Transporting Elm Wood Prohibited.....	5
2029.21 Interference Prohibited.....	5

2020.01 Declaration of Policy

The city council has determined that the health of the shade trees within the city limits is threatened by shade tree diseases. It has further determined that the loss of shade trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare, and convenience of the public. It is the intention of the council to control and prevent the spread of these diseases, and this section is enacted for that purpose, and to conform to the policies and procedures embodied in Minnesota Statutes, section 18.023, section 66, and rules promulgated there-under.

2020.03 Definitions

The terms defined in this section have the meanings given them.

“**Shade tree**” means an oak or elm tree situated in the City of Freeport.

“**Shade tree disease**” means Dutch Elm Disease caused by *ceratocystis ulmi*, or Oak Wilt Disease caused by *ceratocystis fagaceorum*.

“Commissioner” means the commissioner of the Minnesota Department of Agriculture.

“Tree inspector” or **“inspector”** means a person having the necessary qualifications to conduct a shade tree program and who is so certified by the commissioner.

“Disease control area” means the City of Freeport.

“Shade tree control program” or **“program”** means a program developed by the city to combat shade tree disease in accordance with rules promulgated by the commissioner.

2020.05 Tree Inspector

Subd.1 Position Created

The powers and duties of the city tree inspector as set forth in this section are hereby conferred upon the city clerk-treasurer. The clerk-treasurer may designate a city employee to perform the duties of tree inspector.

Subd.2 Duties of Tree Inspector

It is the duty of the tree inspector to coordinate, under the direction and control of the council, all activities of the city relating to the control and prevention of shade tree disease. The inspector must recommend to the council the details of a program for the control of shade tree disease, and perform the duties incident to such a program adopted by the council.

2020.07 Shade Tree Disease Program

It is the intention of the city council to conduct a program of shade tree control pursuant to the authority granted by Minnesota Statutes, section 18.023. This program is directed specifically at the control and elimination of shade tree disease and is undertaken at the recommendation of the commissioner of agriculture, and in conformance with rules promulgated by the commissioner. The city tree inspector acts as coordinator between the commissioner of agriculture and the council in the conduct of this program.

2020.09 Shade Tree Diseases

Subd.1 Nuisances Declared

The following things are public nuisances whenever they may be found within the city:

1. A living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus *ceratocystis ulmi* (buisman) moreau, or which harbors any of the elm bark beetles *scolytus multistriatus* (eichh.) or *hyluigopinus rufipes* (marsh).
2. A dead elm tree or part thereof, including legs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

3. A living or standing northern red oak, northern pine oak, black oak, or scarlet oak, or part thereof infected to any degree with oak wilt disease.

Subd.2 Abatement

It is unlawful for any person to permit any public nuisance as defined in subdivision 1 to remain on premises owned or controlled by that person within the city. Such nuisances may be abated in the manner prescribed by this section.

2020.1 Inspection And Investigation

Subd.1 Annual Inspection

The tree inspector must inspect all premises and places within the city as often as practicable to determine whether any condition described in subsection 2020.09 exists thereon. The inspector must investigate all reported incidents of infestation by Dutch Elm Fungus, Elm Bark Beetles, or Oak Wilt.

Subd.2 Entry on Private Premises

The tree inspector may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties of the inspector under this section. Such inspections must be preceded by two days' written notice to the owner of said private property, unless such a notice is waived in writing by the owner.

Subd.3 Diagnosis

The tree inspector must, upon finding conditions indicating shade tree disease infestation, immediately send appropriate specimens or sample to the commissioner of agriculture for analysis, or take such other steps for diagnosis as may be provided by the commissioner by rule. Except as provided in subsection 2020.13 no action to remove infected trees or wood must be taken until positive diagnosis of the disease has been made.

2020.13 Abatement of Shade Tree Disease Nuisances

In abating the nuisances defined in this section, the inspector must cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of disease. Such abatement procedures must be carried out in accordance with current technical and expert opinions and procedures as may be established by the commissioner of agriculture.

2020.15 Procedure for Removal of Infected Trees And Wood

Subd.1 Findings

Whenever the tree inspector finds with reasonable certainty that the infestation defined in subsection 2020.07 exists in any tree or wood in any public or private place in the city, the inspector must proceed as follows:

1. If the inspector finds that the danger of infestation of other trees is not imminent because of dormancy, the inspector must make a written report of his findings to the council which must proceed by
 - a. abating the nuisance as a public improvement under Minnesota Statutes, chapter 429, or
 - b. abating the nuisance as provided in subdivision 2 of this section.
2. If the Inspector finds danger of infestation of other trees is imminent, the inspector must notify the abutting property owner by certified mail that the nuisance will be abated within a special time, not less than five days from the date of mailing of such notice. The inspector must immediately report such action to the council, and after the expiration of the time limited by the notice the inspector may abate the nuisance.

Subd.2 Notice; Hearing

Upon receipt of the inspector's report required by subdivision 1a, the council may by resolution order the nuisance abated. Before action is taken on such resolution, the council must publish notice of its intention to meet to consider taking action to abate the nuisance. The notice must be mailed to affected property owners and published once no less than one week prior to such meeting. The notice must state the time and place of the meeting, the streets affected, action proposed, and the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the council must hear property owners with reference to the scope and desirability of the proposed project. The council may thereafter adopt a resolution confirming the original resolution with such modification as it considers desirable and provide for the doing of the work by day labor or by contract.

Subd.3 Records

The inspector must keep a record of the costs of abatement ordered under this subsection and report monthly to the city clerk-treasurer work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

Subd.4 Assessment

On or before September 1st of each year, the clerk- treasurer must list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, section 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

2020.17 Tree Inspector; Program

The tree inspector must conduct the shade tree disease control program in accordance with the rules and regulations of the commissioner embodied in AGR 101-120, "shade tree disease control" and subsequent amendments thereto.

2029.19 Transporting Elm Wood Prohibited

It is unlawful to transport within the city any bark-bearing elm wood without having obtained a permit from the tree inspector. The inspector will grant such permits only when the purposes of this section will be served thereby.

2029.21 Interference Prohibited

It is unlawful to prevent, delay, or interfere with the inspector while engaged in the performance of the duties imposed by this section.

Section 2100 – Subdivision Ordinance

2100.01 Title	1
2100.03 Purpose, jurisdiction and conveyances	1
Subd.1 Purpose	1
Subd.2 Jurisdiction.....	1
Subd.3 Restriction.....	2
Subd.4 Applicability	2
2100.05 General Requirements and Definitions.....	2
Subd.1 General Requirements	2
Subd.2 Definitions	2
2100.07 Review and Action.....	5
Subd.1 Approval of Subdivisions Required.....	5
Subd.2 Concept Plan Procedure.....	5
Subd.3 Action on a Preliminary Plat.....	5

2100.01 Title

This Ordinance shall be known as the “Subdivision Ordinance of the City of Freeport” and is referenced as “this Ordinance”.

2100.03 Purpose, jurisdiction and conveyances

Subd.1 Purpose

Pursuant to the authority contained in Minnesota Statutes Section 462.358, this Ordinance is adopted for the following purposes:

1. Assure that new additions will harmonize with the overall development objectives of the community.
2. Encourage well planned subdivisions by establishing optimum development standards.
3. Secure the rights of the general public with respect to public land and water.
4. Improve land records by establishing standards for surveys and plats.
5. Place the cost of improvements against those benefitting.
6. Assure that public improvements such as streets, utilities and drainage are constructed to satisfactory standards.
7. Provide common grounds of understanding between prospective subdividers and municipal officials.

Subd.2 Jurisdiction

The regulations in this Ordinance governing plats and subdivision of lands shall apply within the City’s corporate limits, and as provided for in areas designated for orderly annexation or where otherwise provided for in Minnesota law.

Subd.3 Restriction

No conveyance of land which is subject to this Ordinance shall be filed or recorded if provisions of this Ordinance are not met. Conveyances not in compliance with these regulations will be refused a building permit.

Subd.4 Applicability

1. All subdivisions of land within the corporate limits of the City of Freeport hereafter submitted for approval shall fully comply in all respects with the regulations set forth in this Ordinance. Plans of group developments for residential, commercial, industrial, or other uses or for any combination of uses designed for sale or rental purposes shall be presented in the same manner as subdivisions for the review of the Planning Commission and the approval of the City Council.
2. The following land or parcel subdivisions or conveyances are subject to this Ordinance:
 - a. Any subdivision of platted or unplatted property.
 - b. Lands which are to be divided into two (2) or more lots or parcels.
 - c. Planned Unit Developments.
 - d. Any unplatted land transferred from one zoning district to another at the request of the property owner.

2100.05 General Requirements and Definitions

Subd.1 General Requirements

1. Established Monuments. All federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise location; and it shall be the responsibility of the subdivider to insure that these markers are maintained in good condition during construction and development. All section, quarter section, and sixteenth section corners shall be duly described and tied.
2. Preservation of Natural Features. The Planning Commission may establish any existing natural features in order to preserve any trees, groves, water courses, beaches, historic sites, vistas and similar irreplaceable assets which add value to all developments and to the community as a whole.
3. Land Subject to Flooding. No plat shall be approved for any subdivision which covers an area subject to periodic flooding or which is otherwise poorly drained unless the subdivider agrees to make improvements which will, in the opinion of the City Council, make the area completely safe for occupancy, and provide adequate street and lot drainage and conform to applicable regulations of other agencies such as the U.S. Corps of Engineers and the Department of Natural Resources. In addition, such plats may not be approved if the cost of providing municipal services to protect the flood plain area would impose an unreasonable economic burden upon the City.

Subd.2 Definitions

For the purpose of this Ordinance, the following terms are defined:

Alley - Any dedicated public way providing a secondary means of ingress and/or egress to land.

Block - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

City - The City of Freeport, Minnesota.

City Council - The Freeport City Council.

City Engineer or Consulting Engineer - A professional engineer as designated by the City Council.

Comprehensive Plan - A compilation of the City's policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, including air space and subsurface areas necessary for mined underground space development pursuant to Minnesota Statutes Sections 469.135 to 469.141, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. The comprehensive plan represents recommendations for the future development of the community.

Easement - A grant by a property owner for the use of a piece of real property for public purposes of constructing and maintaining utilities, drainage, and transportation ways, including but not limited to, electric lines, telephone lines, gas lines, storm sewer or storm drainage ways, water and sewer lines.

Flood Fringe Area - The portion of the flood plain outside of the floodway.

Flood Plain - The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

Floodway - The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

Half Street - A street having only one-half of its intended right-of-way width developed to accommodate traffic.

Improvements - Pavement, curbs, gutters, sidewalks, sewer and water facilities, grading, street signs, street lighting, plantings and other items for the welfare of property owners and/ or the general public.

Lot - A portion of a subdivision of land intended for building development or transfer of ownership.

Official Controls - Ordinances and regulations which control the physical development of the City.

Owner - Includes any individual, company, corporation, firm, partnership, association, organization, entity, or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law.

Parcel - A tract, plot, lot, and/or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession, or for building development.

Pedestrian Way - A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and which may also be used for the installation of utility lines.

Plan, Concept - A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching consensus with the Planning Commission as to the form of the plat and the objectives of these regulations. The concept plan must be drawn to scale and should show all existing buildings and site

improvements. It should be informative as to the general lot layout and approximate sizes, park location, and street location.

Planned Unit Development - A tract of land developed as a unit rather than as individual development as provided for in the City's Zoning Code.

Planning Commission - The Planning Commission of the City of Freeport.

Plat - The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in regulations adopted pursuant to Minnesota Statute Section 462.358 and Chapter 505.

Plat, Final - A drawing or map of a subdivision meeting all the requirements of the City and in such form as required by the County for purposes of recording.

Plat, Preliminary - The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

Protective Covenants - Contracts made between private parties as to the manner in which land may be used, with the view to protect and preserve the physical, social, and economic integrity of any given area.

Regional Flood - A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

Right-of-Way - Land dedicated and publicly owned, in fee or by easement, for use as a street, alley, trail, or walkway.

Site Map - A map showing existing conditions including all platted parcels, streets, right-of-ways, easements and any predominant topography or natural features such as lakes and wooded areas.

Street - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

1. **Arterial** - A street that provides traffic movement to and from the City and surrounding rural areas and cities, to and from regional highways and collector streets, and between major parts of the City.
2. **Collector** - A street that carries traffic from the arterial systems to local street destinations. Provides traffic circulation within neighborhoods and within commercial and industrial areas. Local - A street that provides direct access to abutting properties. Through traffic is discouraged.
3. **Frontage Road** - A road intended primarily to provide access to abutting property and located adjacent and generally parallel to a thoroughfare to which access is restricted.
4. **Cul-de-sac** - A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street, Grade - On street center line means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred feet of horizontal distance.

Subdivision - The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

1. Where all the resulting parcels, tracts, lots, or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;

2. Creating cemetery lots;
3. Resulting from court orders; or
4. The adjustment of a lot line by the relocation of a common boundary determined by the Zoning Administrator to be of inconsequential effect on either property involved.

Subdivision, Minor. Any subdivision containing not more than two lots and which does not involve any new street or road, and that is not likely to precipitate the extension of municipal facilities or public improvements.

Zoning Administrator. The person appointed by the City Council to administer the City's zoning and subdivision regulations.

2100.07 Review and Action

Subd.1 Approval of Subdivisions Required

Before any land is subdivided, the Owner of the property proposed to be subdivided must apply for and secure approval of the proposed subdivision in accordance with the procedures set out in this Ordinance.

Subd.2 Concept Plan Procedure

Prior to filing a Preliminary Plat, the applicant may elect to prepare a Concept Plan so that the applicant may become informed of the procedural requirements and minimum standards of this Ordinance and the requirements or limitations imposed by other City ordinances or plans. Concept Plans may be submitted to City staff and/or the Planning Commission. In order for the Planning Commission to review Concept Plans, the applicant must submit the Concept Plans at least ten (10) days before the next scheduled Planning Commission meeting. Submission of a Concept Plan, drawn to scale, shall not be considered an application for subdivision.

Subd.3 Action on a Preliminary Plat

1. Application - A person requesting approval of a Preliminary Plat or Subdivision must fill out and submit to the Zoning Administrator a Subdivision Application form, accompanied by the required fee and including the information required under Section 5 of this Ordinance.
2. Application Deadline - The Zoning Administrator must receive completed subdivision applications at least ten (10) days prior to the Planning Commission's next scheduled meeting.
3. Fees - A fee the City Council shall establish by ordinance must accompany the subdivision application. An additional fee may be charged for atypical projects, which in the opinion of the Zoning Administrator will require



CITY OF FREEPORT

125 Main Street E – PO Box 301 – Freeport, MN 56331 – 320-836-2112 – FAX 320-836-2116
For TTY/TDD Users 1-800-627-3529 or 711 Minnesota Relay Service www.freeportmn.org

ORDINANCE 2012-004

ORDINANCE FIXING THE LICENSE, CONSUMPTION AND PERMIT FEES UNDER THE FREEPORT CITY CODE OF 1995 (APPENDIX I)

Be it ordained by the city council of Freeport, Minnesota:

Section 1. The Freeport City Code of 1995 authorizes the City Council to fix the fees and charges imposed by the Code for various city services. The fees and charges imposed may be amended from time to time by the council and is to be entitled Appendix I.

Section 2. The license, consumption and permit fees, as well as other related charges, are hereby amended, as follows:

City Code	Description	Fee (\$)
500 - Zoning		
	Building Permit	Per Building Inspector's Fee Schedule
	Conditional Use	150.00
	Rezoning Request	250.00
	Variance Request	150.00
	Zoning Permit	25.00
605 - Noxious Weeds		
	Minimum Charge for Removal	95.00
705 - Private Drains		
	Disposal into Sanitary Sewer Violation [monthly]	75.00
710 - Wastewater Service Charges		
<i>Usage [monthly]</i>		
	With Meter [per 1,000 gallons]	1.30
	Commercial Without Meter	20.50
	Residential Without Meter	22.34
<i>Connection [monthly]</i>		
	Commercial, Convenience Store/Car Wash	22.43
	Commercial, Large Business (e.g. Service station, church)	19.18
	Commercial, Liquor Stores, On/Off Sale	22.00
	Commercial, Restaurants	42.64
	Commercial, Small Business	18.00
	Residential, Manor Apartments	90.65
	Residential, Multiple Family [per unit]	19.65
	Residential, Single Family	15.65
	School	30.65
<i>Other</i>		
	Wastewater Bulk Dumping Fee	25.00

Wastewater Hook-up Charge [per parcel]	1,200.00
Wastewater Main Stub-out Charge [per parcel]	3,800.00

715 - Water Service Charges

<i>Usage [monthly]</i>	
Per 1,000 gallons	2.95
<i>Connection [monthly]</i>	
Service Charge [monthly]	7.00
Water Security Fee	75
Water Testing Fee	45
Water Tower Debt Service Fee, Residential	20.00
Water Tower Debt Service Fee, Commercial	Set by EDU
<i>Other</i>	
Disconnect	50.00
Hydrant Water Sales [per 1,000 gallons]	10.00
Late Payment Fee [monthly]	15.00
Reconnect	50.00
Utility Labels [full or partial set]	35.00
Water Hook-up Charge [per parcel]	1,200.00
Water Main Stub-out Charge [per parcel]	3,800.00
Water Meters	Sold to Customer at Cost

910 - Animals: Pets

Animal Disposal Fee	75.00
Animal Impound Fee, 1 st Offense	50.00
Animal Impound Fee, 2 nd Offense	75.00
Animal Impound Fee, 3 rd Offense	100.00
Animal License Fee	5.00
Boarding [daily]	8.00

925 - Fire and Rescue Department

Air Bags	25.00
Bandages	5.00
Blankets	10.00
Cold Compress	2.00
Defibrillator	25.00
Generator	25.00
Gloves	5.00
Jaws [extrication]	25.00
Oxygen	15.00
Responders [hourly per responder]	15.00
Splints	5.00
Suction	15.00
Vehicles [per vehicle responding]	150.00

1100 - Public Parks

Park Rental [daily, includes shelter]	35.00
---	-------

1200 - Liquor and Beer

Off-Sale Liquor [annual]	100.00
On-Sale 3.2% [annual]	200.00
On-Sale Liquor [annual]	2,345.00
Special Sunday Sales [annual]	200.00
Temporary On-Sale 3.2%	15.00
Temporary On-Sale Liquor	25.00

2010 - Public Nuisance

Nuisance Response [minimum].....95.00

Peddlers and Solicitors (Ordinance 2012-003)

10-day permit within a 12 month period50.00

30-day permit within a 12 month period100.00

90-day permit within a 12 month period150.00

Violation [daily]25.00

Other

Administrative Staff Time [hourly]85.00

Annexation Request Security Deposit.....1,000.00

Blanket Easement Vacation..... At Cost

Business Subsidy Security Deposit5,000.00

Charitable Gambling Transaction Fee.....25.00

City Hall Room Rental35.00

Copying Charge [per page]25

Driveway Aprons, Curb and Gutter..... At Cost

Lawn Tractor, Lawn Mower & Labor [hourly].....90.00

Map Creation.....50.00

Map Request.....10.00

Mileage Reimbursement..... Per IRS rate

Small Cities Development Program Transaction Fee.....300.00

Special Assessment Search.....10.00

Street Reconstruction Per Manual of Assessment Standards and Policies

Adopted by the Freeport City Council this 5th day of May, 2012.



CITY OF FREEPORT

125 Main Street E – PO Box 301 – Freeport, MN 56331 – 320-836-2112 – FAX 320-836-2116
For TTY/TDD Users 1-800-627-3529 or 711 Minnesota Relay Service www.freeportmn.org

ORDINANCE 2006-001

AN ORDINANCE GRANTING ALBANY MUTUAL TELEPHONE ASSOCIATION, A MINNESOTA COOPERATIVE ASSOCIATION, A FRANCHISE TO OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF FREEPORT; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; AND PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY.

The City of Freeport (“City”) ordains:

STATEMENT OF INTENT AND PURPOSE

The City intends, by the adoption of this Franchise, to bring about the further development of a Cable System, and the continued operation of it. Adoption of this Franchise is, in the judgment of the City, in the best interests of the City, its residents, and the community.

FINDINGS

In the review of the application for an initial franchise by Albany Mutual Telephone Association d/b/a Albany Tel-Vision (“Grantee”) and negotiations related thereto, and as a result of a public hearing, the City makes the following findings:

1. The Grantee’s technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;
2. Grantee’s plans for operating the System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
3. The Franchise granted to Grantee by the City complies with the existing applicable Minnesota Statutes, federal laws and regulations; and
4. The Franchise granted to Grantee is nonexclusive.

SECTION 1.

SHORT TITLE AND DEFINITIONS

1. Short Title. This Franchise Ordinance shall be known and cited as the Competitive Cable Communications Ordinance.

2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The words “shall” or “must” are always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.
- a. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47U.S.C. § 543(b)(7) (1993).
 - b. “Cable Programming Service” means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - (1) Video programming carried on the Basic Service Tier;
 - (2) Video programming offered on a pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - (i) consists of commonly-identified video programming; and
 - (ii) is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) (1993) and 47 C.F.R. 76.901(b).
 - c. “Cable Service” or “Service” means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service pursuant to Minn. Stat. § 238.01 et seq. and 47 U.S.C. § 521 et seq., as may be amended from time to time.
 - d. “Cable System” or “System” means a system which operates the service of receiving and amplifying programs broadcast by one or more television or radio stations and other programs, and distributing those programs by wire, cable, microwave or other means, whether the means are owned or leased, to persons who subscribe to the service.
 - e. “City” means the City of Freeport, Minnesota, a municipal corporation, in the State of Minnesota.
 - f. “City Council” means the Freeport, Minnesota City Council.
 - g. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.
 - h. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
 - i. “Franchise” or “Cable Franchise” means this ordinance issued pursuant to Minnesota law which authorizes the construction or operation of a Cable System.
 - j. “Franchise Fee” means any tax, fee or assessment imposed by the City on a Grantee solely because of its status as a recipient of a Cable Franchise. The term “Franchise Fee” does not

include: (i) any tax, fee or assessment of general applicability; (ii) any capital costs which are required by this Franchise to be incurred by Grantee for public, educational, or governmental access facilities; (iii) requirements or charges incidental to awarding or enforcing this Franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages; (iv) any fee imposed under Title 17 of the United States Code.

- k. “Grantee” is Albany Mutual Telephone Association, a Minnesota cooperative association d/b/a Albany Tel-Vision, its agents and employees, lawful successors, transferees or assignees.
- l. “Gross Revenues” means all subscriber revenue received by the Grantee and its affiliates from the operation of the System to provide Cable Service in the City, including but not limited to Cable Service fees, installation and reconnection fees, upgrade and downgrade fees, Franchise Fee receipts, cable modem service fees to the extent permitted by applicable law, converter rental fees, or Lockout Device fees. The term Gross Revenues shall not include bad debt, or any taxes on services furnished by Grantee which are imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
- m. “Installation” means the connection of the System from feeder cable to the point of connection, including any Standard Installation and any custom installation.
- n. “Normal Business Hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and some weekend hours.
- o. “Normal Operating Conditions” means those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the System.
- p. “Pay Television” means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- q. “Person” is any person, firm, partnership, association, corporation, company, or other legal entity.
- r. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in the Franchise Area in which City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of the City, including any other Rights-of-Way dedicated for travel purposes and utility easements.
- s. “Right-of-Way Ordinance” means such ordinance adopted by the City creating requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.
- t. “Standard Installation” means any residential installation which can be completed using a Drop of 150 feet or less.

- u. “Subscriber” means any Person who lawfully receives Service via the System.

SECTION 2.

GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
2. Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a System or provide Service in City unless such Person shall first obtain and hold a valid Franchise.
3. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege pursuant to this Franchise, subject to the requirements of any applicable ordinance, rule or procedure, to construct, erect, operate and maintain a Cable System in the Rights-of-Way in the City to provide Cable Service. The System constructed and maintained by Grantee shall not interfere with other uses of the Rights-of-Way. Grantee shall make use of existing poles and other above and below-ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Notwithstanding the above grant to use Rights-of-Way, use of such Rights-of-Way shall not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated, with the present use of such Rights-of-Way, and with all legal requirements related to the use of such Rights-of-Way, including the terms and conditions of any applicable Right-of-Way Ordinance.
 - c. This Franchise shall be nonexclusive and City reserves the right to grant similar use to any Person at any time during the term of this Franchise.
4. Franchise Term. Upon acceptance by Grantee as provided in Section 13 herein, this Franchise shall be in effect for a period of fifteen (15) years unless sooner renewed, revoked, or terminated as provided herein.
5. Compliance with Applicable Laws, Resolutions and Ordinances. The Grantee shall at all times during the term of this Franchise be subject to all applicable city ordinances and the City’s lawful exercise of the police power, statutory rights, local ordinance-making authority, and eminent domain rights. This Franchise shall comply with Minnesota franchise standards contained in Minn. Stat. § 238.01 et seq.
6. Territorial Area Involved/Service Extension.
 - a. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. Grantee shall be required to extend Service to any requesting Person or area in the event there is a minimum of twenty five (25) homes per cable mile of new plant needed to serve such Person or area. In such case, Grantee shall not charge an additional fee or assessment for the extension of the System. In addition, Grantee shall extend Service to any Person requesting Service, regardless of home density, at a cost equal to the construction costs per mile multiplied by a fraction whose numerator equals the actual number of homes per mile, and whose denominator equals twenty five (25) homes. Those Persons wishing to become Subscribers and requesting Service will bear the remainder of the construction costs on a pro rata basis.
 - b. Grantee shall be given a reasonable period of time to construct and activate cable plant to provide Service to annexed or newly developed areas but in no event shall such period exceed

twelve (12) months from notice thereof by City to Grantee.

- c. Access to Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides.
7. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Freeport
 104- 4th Street N.W., P.O. Box 301
 Freeport, MN 56331
 Attn: City Clerk

If to Grantee: Albany Mutual Telephone Company
 131 6th St
 PO Box 570
 Albany, MN 56307

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

SECTION 3.

CONSTRUCTION STANDARDS

1. Construction Codes and Permits.
 - a. Grantee shall obtain all lawful and necessary permits from City before commencing any construction or extension of System, including the opening or disturbance of any Right-of-Way, or private or public property within City. Grantee shall comply with all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the System in the City and give due consideration at all times to the aesthetics of the property.
 - b. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.
2. Repair of Rights-of-Way and Property. Any Rights-of-Way or public or private property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to the same condition as that prevailing prior to Grantee's work, as approved by City in the case of Rights-of-Way and other public property, which approval shall not be unreasonably withheld. Upon notice, the Grantee shall repair any ground that subsides due to digging, trenching or other underground work by Grantee or its agents. If Grantee fails to promptly perform the restoration required herein, City may perform the restoration of the Rights-of-Way, public, or private property as required herein at Grantee's expense.
3. Conditions on Right-of-Way Use.
 - a. Nothing in this Franchise shall be construed to prevent City from adopting and enforcing requirements for the usage of Rights-of-Way or from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any

Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

- b. All System transmission and distribution structures, lines and equipment erected by the Grantee shall be located so as not to obstruct or interfere with the use of Right-of-Way and to cause minimum interference with the rights of property owners who abut any of said Right-of-Way and not to interfere with existing public utility installations. The Grantee shall promptly remove any abandoned or unused facilities.
 - c. If at any time during the period of this Franchise City shall elect to alter or change the grade or location of any Right-of-Way, the Grantee shall, upon reasonable notice and in a manner consistent with applicable ordinances, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If the City enters into an agreement to reimburse other occupants of the Right-of-Way for such relocation or removal, Grantee shall be likewise reimbursed.
 - d. The Grantee shall not place poles, conduits, or other fixtures of System above or below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Right-of-Way shall be so placed as to comply with all requirements of the City. Grantee shall use its best efforts to obtain the permission and consent of any utility company for the use of existing poles, conduits or other wire-holding structures located in City. Grantee shall utilize existing poles, conduits, or other wire-holding structures of existing utilities to the extent technically and economically feasible. City shall have no obligation to assist Grantee in obtaining the consent for use of existing facilities from any utility company.
 - e. Grantee shall give reasonable prior notice to any private property owners who will be directly affected or impacted by Grantee's work in Rights-of-Way.
 - f. The Grantee shall have the authority to trim any trees upon and overhanging the Rights-of-Way only to the extent necessary.
 - g. Upon request, Grantee shall furnish to the City the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities.
4. Undergrounding of Cable. Grantee shall place its System underground in areas of the City where all other utility lines are placed underground.
5. Drop Burial. Grantee shall bury all Drops in a reasonable time period which shall not exceed thirty (30) business days weather permitting. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than June 30th.
6. Erection, Removal and Joint Use of Poles. No poles, conduits, amplifier boxes, pedestal mounted terminal boxes, similar structures, or other wire-holding structures shall be erected or installed by the Grantee without prior approval of City with regard to location, height, type and other pertinent aspects. Such facilities shall be subject to applicable zoning requirements and shall be of such size and design and shall be so located as not to be unsightly or unsafe.
7. Safety Requirements.
- a. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

- b. The Grantee shall install and maintain its System and other equipment and facilities in accordance with all federal, state and local laws and regulations, and the requirements of the National Electric Safety Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of City or of any public utility serving City.
 - c. All System structures, lines, equipment and connections in, over, under and upon the Rights-of-Way, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of the City or any Person.
8. Emergency Use of Facilities. In the case of any emergency, the Grantee shall upon request of the City, make available its facilities to City during the period of emergency.

SECTION 4.

DESIGN PROVISIONS

1. System Upgrade; Minimum Channel Capacity. Grantee will install, maintain and operate a System delivering at least 172 video programmed channels throughout the term of this Franchise.
2. Drops to Public Buildings. Grantee shall provide, free of charge, Installation of one (1) two-way capable cable Drop, one (1) cable outlet, and monthly Cable Service without charge to the City Hall and such public or educational institutions locations agreed upon by the City and Grantee.
3. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.
4. Operation and Maintenance of System. The Grantee shall render good quality Service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.
5. Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Code of Federal Regulations Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. Any failure to comply with the FCC technical standards, as may be determined below, shall be a violation of this Franchise.
6. Performance Review and System Testing.
 - a. The City may require special testing of the System. Demand for such special tests must be made on the basis of at least two complaints indicating an unresolved System performance difficulty. Alternatively, the City may test the System at any time upon prior written notice to Grantee.
 - b. Before ordering special tests, Grantee shall be afforded ten (10) days to correct problems or complaints upon which tests were ordered. If the performance difficulty resulting in noncompliance is not resolved, in City's reasonable determination, the tests shall be conducted at Grantee's expense by a qualified consultant selected by City.
7. FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall also be copied to the City.
8. Nonvoice Return Capability. Grantee is required to provide a System with the technical capability for two-way activation allowing return signals.

9. Lockout Device. Upon the request of a Subscriber, Grantee shall provide a device that permits the blocking of a selected channel.

SECTION 5.

SERVICES PROVISIONS

1. Regulation of Service Rates. The City may regulate rates for Services provided over the System to the extent allowed under federal or state law(s). A list of Grantee's current Subscriber rates and charges shall be maintained on file with the City and shall be available for public inspection. Grantee shall give the City and Subscribers written notice of any change in a rate or charge no less than thirty (30) days prior to the effective date of the change.
2. Video Programming. Grantee is authorized to make programming decisions, provided, however, that any change in the broad categories of video programming or other information services shall require the approval of the City consistent with 47 U.S.C. § 544(b), which approval shall not be unreasonably withheld, and, further provided that Grantee's programming decisions are subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536. Grantee may not eliminate, move or renumber a PEG access or community programming channel required hereunder without prior approval of the City. Grantee must notify the City and Subscribers in writing thirty (30) days prior to any channel additions, deletions, or realignments.
3. Service Complaints.
 - a. Responsiveness. Grantee shall maintain a local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week. During Normal Business Hours, trained representatives of Grantee shall be available to respond to Subscriber inquiries.
 - b. Telephone Answer Time and Busy Signals. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a quarterly basis. Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.
4. Installation, Outage and Service Calls. Under Normal Operating Conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis: (1) Standard Installations will be performed within seven (7) business days after an order has been placed; (2) Excluding conditions beyond the control of Grantee which prevent performance, Grantee will begin working on Service Interruptions promptly, and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee shall begin actions to correct other service problems the next business day after notification of the service problem; (3) The "appointment window" alternatives for Installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the convenience of the customer; (4) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment; (5) If a representative of Grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
5. Complaint Records. Grantee shall prepare and maintain written records of all complaints received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee. Grantee shall provide the City with a written summary of such

complaints and their resolution on a quarterly basis and in a form mutually agreeable to City and Grantee.

6. Billing and Subscriber Communications. Grantee must give Subscribers thirty (30) days advance written notice with copy to City before any changes in rates, programming services, or channel positions. Bills must be clear, concise, and understandable and may be itemized consistent with law. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.
7. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall have the right to market consistent with local ordinances and other applicable laws and regulations.
8. Refunds and Credits. In the event a Subscriber establishes or terminates Service and receives less than a full month's Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued within thirty (30) days. If Service is interrupted or discontinued for 24 or more consecutive hours, upon request, Subscribers shall be credited pro rata for such interruption beginning with the date of interruption. Credits for will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.
9. Additional Customer Service Requirements. The City expressly reserves authority to adopt additional or modified customer service requirements to address Subscriber concerns or complaints in accordance with law.

SECTION 6.

ACCESS CHANNEL(S) PROVISIONS

1. PEG Channel. The Grantee shall dedicate at least two (2) channels on the System for public, education, and government access (hereinafter "PEG access") programming and use. The channels must be cablecast on the Basic Cable Service tier using the VHF spectrum. All Subscribers who receive some or all of the Services offered on the System shall receive reception on such channels at no extra charge. The System must be designed to permit cablecasting of live programming originated at City Hall on one of the PEG access channels.
2. PEG Access Responsibility. Except as provided in Section 6(5), the City shall operate, administer, and manage and the PEG channels. The City shall be solely responsible for determining the use and programming of the PEG access channels.
3. Charges for Use. Channel time and playback of prerecorded programming on the PEG access channels must be provided without charge to the City.
4. Access Rules. The City may implement rules for use of any PEG access channels.
5. Melrose Access Programming. In addition to franchise fees, the City has required the incumbent cable operator to provide grants of up to Seven Thousand Five Hundred Dollars (\$7500.00) for capital costs associated with PEG access. In lieu of an identical obligation, the Grantee will provide certain facilities, channel capacity and programming as provided herein. The Grantee will simulcast in the City such PEG access programming as is produced and cablecast in the City of Melrose (currently known as "MelTV"). The Grantee will install and maintain facilities and provide such channel capacity as is necessary to simulcast the MelTV access programming. Further, the Grantee will make such programming available to the incumbent cable operator on commercially reasonable terms and at a location of the Grantee's choosing. The City acknowledges that the value of the obligations in this paragraph equal or exceed the incumbent cable operator's grant payments. The Grantee agrees that any costs or expenses associated with these obligations will not be itemized on

Subscriber bills.

SECTION 7.

OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may delegate authority to an advisory body or other delegatee to administer and enforce the Franchise and to monitor the performance of the Grantee pursuant to the Franchise. Grantee shall cooperate with any such delegatee of the City.
2. Franchise Fee.
 - a. Grantee shall pay to City a Franchise Fee in the annual amount of three percent (3%) of its annual Gross Revenues. The City may increase the Franchise Fee to five percent (5%) of annual Gross Revenues. Upon receipt of written notice of a change in the Franchise Fee amount, the Grantee shall implement the modified Franchise Fee amount within ninety (90) days.
 - b. Payments due under this provision shall be payable quarterly. The payment shall be made within sixty (60) days of the end of each of Grantee's fiscal quarters together with a brief report which shows the basis for the computation.
 - c. All amounts paid shall be subject to audit and recomputation by the City and acceptance of any payment shall not be construed, as an accord that the amount paid is in fact the correct amount.
3. Access to Records. Upon reasonable notice, at any time during Normal Business Hours, the City shall have the right to inspect and copy records maintained by Grantee which relate to System operations and Gross Revenues including specifically Grantee's accounting and financial records, subject to the privacy provisions of 27 U.S.C. § 521, et seq. Grantee shall provide copies of any such records upon request by City. In addition, Grantee shall prepare and furnish to the City, at the times and in the form prescribed, such other reports with respect to the operations, affairs, transactions or property, as they relate to the System, which City and Grantee may agree upon.

SECTION 8.

GENERAL FINANCIAL, INSURANCE AND SECURITY PROVISIONS

1. Letter of Credit or Performance Bond.
 - a. The Grantee shall furnish a letter of credit or bond ("Security") to the City, in favor of the City, in the amount of Ten Thousand Dollars (\$10,000.00) in a form and with such sureties as are reasonably acceptable to the City. This Security will be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance, regulation, or the Franchise, up to the full amount of the Security shall be recoverable for: any fine imposed by the City, and; such damages or loss suffered by the City including a reasonable allowance for attorneys' fees and costs, and; claims, liens and taxes due the City which arise by reason of the construction, operation, or maintenance of the System.
 - b. Grantee shall be provided written notice and thirty (30) days to cure any violation or liability. The time for Grantee to correct any violation or liability, shall be extended by City if the necessary action to correct such violation or liability is of such a nature or character as to require more than thirty (30) days within which to perform, provided Grantee provides written notice that it requires more than thirty (30) days to correct such violations or liability,

commences the corrective action within the thirty (30) day period and thereafter uses reasonable diligence to correct the violation or liability.

- c. The rights reserved to the City with respect to the Security shall not be deemed an exclusive remedy and are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the Security shall affect any other right the City may have. The amount of the Security shall not in any way limit the extent of Grantee's liability to City.

2. Indemnification.

- a. The City and its officers, boards, committees, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System or as to any other action or event with respect to this Franchise.
- b. Grantee shall indemnify, defend, and hold harmless the City, its officers, boards, committees, elected officials, employees and agents from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise, administration, or enforcement of the Franchise including, but not limited to, the reimbursement to City of any insurance deductible paid by City.
- c. Nothing in this Franchise relieves a Person, except the City, from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.
- d. In order for City to assert its rights to be indemnified, defended and held harmless, City must:
 - 1. Reasonably notify Grantee in writing of any claim or legal proceeding which gives rise to such right; and
 - 2. Afford Grantee the opportunity to participate in disposition of any claim or proceeding; and
 - 3. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in disposition of such claim or proceeding subject to paragraph two (2) above.

5. Insurance.

- a. Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy in protection of the Grantee, and the City, its officers, boards, committees, elected officials, employees and agents for any and all damages and penalties which may arise as a result of this Franchise. The policy or policies shall name the City as an additional insured, and in their capacity as such, the City officers, boards, committees, elected officials, employees and agents.
- b. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for personal injury or death of any one Person, and Two Million Dollars (\$2,000,000.00) for personal injury or death in any one occurrence, One Million Dollars (\$1,000,000.00) for property damage to any one person and Two Million Dollars (\$2,000,000.00) for property damage resulting from any one act or occurrence.
- c. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on

its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to the City.

SECTION 9.

SALE, ABANDONMENT, AND TRANSFER OF FRANCHISE

1. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to the City. Grantee may not abandon the System or any portion thereof without compensating the City for damages resulting from the abandonment.
2. Removal After Abandonment, Termination or Forfeiture.
 - a. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City; provided, however, City may not require removal if Grantee is authorized to provide and is providing telecommunications services pursuant to state or federal law.
 - b. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written notice of the City demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City demand for removal is given, the City shall have the right to apply funds secured by the Performance Bond toward removal and/or declare all right, title, and interest to the System to be in the City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it pursuant to the provisions of 47 U.S.C. § 547.
3. Sale or Transfer of Franchise.
 - a. No sale, transfer, or “fundamental corporate change” as defined in Minn. Stat. § 238.083 of or in Grantee, shall take place until the parties to the sale, transfer, or corporate change file a written request with the City for its approval and such approval is granted by the City, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.
 - b. Any transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section. The term “controlling interest” as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
 - c. The City shall have such time as is permitted by applicable law in which to review a transfer request.
 - d. In no event shall a transfer pursuant to this Section be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations hereunder.
 - e. In the event of any proposed sale or transfer pursuant to this Section, the City shall have the option to purchase the System. The City shall be deemed to have waived its rights under this Section in the following circumstances:
 - i. If it does not indicate to Grantee in writing, within sixty (60) days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or
 - ii. It approves the assignment or sale of the Franchise as provided within this Section.

SECTION 10.

REVOCATION OF FRANCHISE

1. City's Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined that Grantee has violated any material provision of this Franchise, has made intentional misrepresentations to City, or has practiced fraud or deceit upon the City of a Subscriber. The City may revoke this Franchise immediately if Grantee is adjudged bankrupt.
2. Procedures.
 - a. The City shall provide Grantee with written notice identifying the cause for revocation and its intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of notice in which to correct the violation.
 - b. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subparagraph (a) above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
 - c. After such public hearing and release of written findings, the City may revoke the Franchise. Grantee may appeal such revocation to a court of competent jurisdiction.
 - d. During the appeal period, Grantee may continue to operate the System pursuant to the terms and conditions of the Franchise, unless the term thereof sooner expires.

SECTION 11.

PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability. Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to nondiscrimination.
2. Subscriber Privacy.
 - a. Grantee shall comply with the subscriber privacy-related requirements of 47 U.S.C. § 551. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.
 - b. No lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall

be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

- c. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in Subparagraph (b) of this Section.

SECTION 12.

MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations.
2. Work Performed by Others. All obligations of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise, however, in no event shall any such subcontractor or other Person performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to the City of the name(s) and address(es) of any entity, other than Grantee, which performs pursuant to this Franchise.
3. Amendment of Franchise Ordinance. Grantee and the City may agree, from time to time, to amend this Franchise, however, nothing herein shall restrict the City's exercise of its police powers.
4. Application of Franchise Terms.
 - a. Grantee and the City shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
 - b. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall not be affected and this Franchise shall, in all other respects, continue to be effective provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. City may terminate this Franchise if invalidity or unenforceability of any provision substantially alters the agreement of the parties, in City's sole discretion.
 - a. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance.
 - b. All rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City at law or in equity and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.
5. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

SECTION 13.

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication: Effective Date. This Franchise shall be published in accordance with applicable law. The Effective Date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.
2. Acceptance.
 - a. Grantee shall accept this Franchise within sixty (60) of its enactment by the City, unless the time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this Franchise shall be null and void.
 - b. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.
 - c. If accepted, Grantee will execute and deliver this Franchise to the City.

Passed and adopted this 8th day of March, 2006.

ATTEST:

CITY OF FREEPORT

By: _____

Its: __Mayor_____

By: _____

Its: ____City Clerk/Treasurer____

ACCEPTED: This Franchise is accepted and the undersigned agrees to be bound by its terms and conditions.

Dated: _____

Albany Mutual Telephone Association



CITY OF FREEPORT

125 Main Street E – PO Box 301 – Freeport, MN 56331 – 320-836-2112 – FAX 320-836-2116
For TTY/TDD Users 1-800-627-3529 or 711 Minnesota Relay Service www.freeportmn.org

ORDINANCE 2004-03

AN ORDINANCE GRANTING US CABLE OF COASTAL-TEXAS, L.P., A NEW JERSEY LIMITED PARTENRSHIP, A FRANCHISE TO OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF FREEPORT; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; AND PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY.

The City of Freeport (“City”) ordains:

STATEMENT OF INTENT AND PURPOSE

The City intends, by the adoption of this Franchise, to bring about the further development of a Cable System, and the continued operation of it. Adoption of this Franchise is, in the judgment of the City, in the best interests of the City, its residents, and the community.

FINDINGS

In the review of the request for renewal by US Cable of Coastal-Texas, L.P. d/b/a US Cable (“Grantee”) and negotiations related thereto, and as a result of a public hearing, the City makes the following findings:

1. The Grantee’s technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;
2. Grantee’s plans for operating the System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
3. The Franchise granted to Grantee by the City complies with the existing applicable Minnesota Statutes, federal laws and regulations; and
4. The Franchise granted to Grantee is nonexclusive.

SECTION 1.

SHORT TITLE AND DEFINITIONS

1. Short Title. This Franchise Ordinance shall be known and cited as the Cable Communications Ordinance.
2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The words “shall” or “must” are always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.

- a. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47U.S.C. § 543(b)(7) (1993).
- b. “Cable Programming Service” means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - (1) Video programming carried on the Basic Service Tier;
 - (2) Video programming offered on a pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - (i) consists of commonly-identified video programming; and
 - (ii) is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) (1993) and 47 C.F.R. 76.901(b).

- c. “Cable Service” or “Service” means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service pursuant to Minn. Stat. § 238.01 et seq. and 47 U.S.C. § 521 et seq., as may be amended from time to time.
- d. “Cable System” or “System” means a system which operates the service of receiving and amplifying programs broadcast by one or more television or radio stations and other programs, and distributing those programs by wire, cable, microwave or other means, whether the means are owned or leased, to persons who subscribe to the service.
- e. “City” means the City of Freeport, Minnesota, a municipal corporation, in the State of Minnesota.
- f. “City Council” means the Freeport, Minnesota City Council.
- g. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.
- h. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- i. “Franchise” or “Cable Franchise” means this ordinance issued pursuant to Minnesota law which authorizes the construction or operation of a Cable System.
- j. “Franchise Fee” means any tax, fee or assessment imposed by the City on a Grantee solely because of its status as a recipient of a Cable Franchise. The term “Franchise Fee” does not include: (i) any tax, fee or assessment of general applicability; (ii) any capital costs which are required by this Franchise to be incurred by Grantee for public, educational, or governmental access facilities; (iii) requirements or charges incidental to awarding or enforcing this Franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages; (iv) any fee imposed under Title 17 of the United States Code.

- k. “Grantee” is US Cable of Coastal-Texas, L.P., a New Jersey limited partnership d/b/a US Cable, its agents and employees, lawful successors, transferees or assignees.
- l. “Gross Revenues” means all subscriber revenue received by the Grantee and its affiliates from the operation of the System to provide Cable Service in the City, including but not limited to Cable Service fees, installation and reconnection fees, upgrade and downgrade fees, Franchise Fee receipts, cable modem service fees to the extent permitted by applicable law, converter rental fees, or Lockout Device fees. The term Gross Revenues shall not include bad debt, or any taxes on services furnished by Grantee which are imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
- m. “Installation” means the connection of the System from feeder cable to the point of connection, including any Standard Installation and any custom installation.
- n. “Normal Business Hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and some weekend hours.
- o. “Normal Operating Conditions” means those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the System.
- p. “Pay Television” means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- q. “Person” is any person, firm, partnership, association, corporation, company, or other legal entity.
- r. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in the Franchise Area in which City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of the City, including any other Rights-of-Way dedicated for travel purposes and utility easements.
- s. “Right-of-Way Ordinance” means such ordinance adopted by the City creating requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.
- t. “Standard Installation” means any residential installation which can be completed using a Drop of 150 feet or less.
- u. “Subscriber” means any Person who lawfully receives Service via the System.

SECTION 2.

GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.

2. Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a System or provide Service in City unless such Person shall first obtain and hold a valid Franchise.
3. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege pursuant to this Franchise, subject to the requirements of any applicable ordinance, rule or procedure, to construct, erect, operate and maintain a Cable System in the Rights-of-Way in the City to provide Cable Service. The System constructed and maintained by Grantee shall not interfere with other uses of the Rights-of-Way. Grantee shall make use of existing poles and other above and below-ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Notwithstanding the above grant to use Rights-of-Way, use of such Rights-of-Way shall not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated, with the present use of such Rights-of-Way, and with all legal requirements related to the use of such Rights-of-Way, including the terms and conditions of any applicable Right-of-Way Ordinance.
 - c. This Franchise shall be nonexclusive and City reserves the right to grant similar use to any Person at any time during the term of this Franchise.
4. Franchise Term. Upon acceptance by Grantee as provided in Section 13 herein, this Franchise shall be in effect for a period of fifteen (15) years from September 1, 2003, and shall expire on August 30, 2018, unless sooner renewed, revoked, or terminated as provided herein.
5. Previous Franchise. Upon acceptance by Grantee, this Franchise shall supersede and replace Ordinance No. 106.
7. Compliance with Applicable Laws, Resolutions and Ordinances. The Grantee shall at all times during the term of this Franchise be subject to all applicable city ordinances and the City's lawful exercise of the police power, statutory rights, local ordinance-making authority, and eminent domain rights. This Franchise shall comply with Minnesota franchise standards contained in Minn. Stat. § 238.01 et seq.
8. Territorial Area Involved/Service Extension.
 - a. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. Grantee shall be required to extend Service to any requesting Person or area in the event there is a minimum of twenty five (25) homes per cable mile of new plant needed to serve such Person or area. In such case, Grantee shall not charge an additional fee or assessment for the extension of the System. In addition, Grantee shall extend Service to any Person requesting Service, regardless of home density, at a cost equal to the construction costs per mile multiplied by a fraction whose numerator equals the actual number of homes per mile, and whose denominator equals twenty five (25) homes. Those Persons wishing to become Subscribers and requesting Service will bear the remainder of the construction costs on a pro rata basis.
 - b. Grantee shall be given a reasonable period of time to construct and activate cable plant to provide Service to annexed or newly developed areas but in no event shall such period exceed twelve (12) months from notice thereof by City to Grantee.
 - c. Access to Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides.
9. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail

in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Freeport
125 E. Main St., P.O. Box 301
Freeport, MN 56331
Attn: City Clerk

If to Grantee: US Cable of Coastal-Texas, L.P.
State Manager
402 Red River Avenue North, Unit 5
P.O. Box 496
Cold Spring, MN 56320

With copy to: US Cable Corporation
28 West Grand Avenue
Montvale, NJ 07645
Attn: Vice President of Operations

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

SECTION 3.

CONSTRUCTION STANDARDS

1. Construction Codes and Permits.
 - a. Grantee shall obtain all lawful and necessary permits from City before commencing any construction or extension of System, including the opening or disturbance of any Right-of-Way, or private or public property within City. Grantee shall comply with all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the System in the City and give due consideration at all times to the aesthetics of the property.
 - b. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.
2. Repair of Rights-of-Way and Property. Any Rights-of-Way or public or private property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to the same condition as that prevailing prior to Grantee's work, as approved by City in the case of Rights-of-Way and other public property, which approval shall not be unreasonably withheld. Upon notice, the Grantee shall repair any ground that subsides due to digging, trenching or other underground work by Grantee or its agents. If Grantee fails to promptly perform the restoration required herein, City may perform the restoration of the Rights-of-Way, public, or private property as required herein at Grantee's expense.
3. Conditions on Right-of-Way Use.
 - a. Nothing in this Franchise shall be construed to prevent City from adopting and enforcing requirements for the usage of Rights-of-Way or from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

- b. All System transmission and distribution structures, lines and equipment erected by the Grantee shall be located so as not to obstruct or interfere with the use of Right-of-Way and to cause minimum interference with the rights of property owners who abut any of said Right-of-Way and not to interfere with existing public utility installations. The Grantee shall promptly remove any abandoned or unused facilities.
 - c. If at any time during the period of this Franchise City shall elect to alter or change the grade or location of any Right-of-Way, the Grantee shall, upon reasonable notice and in a manner consistent with applicable ordinances, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If the City enters into an agreement to reimburse other occupants of the Right-of-Way for such relocation or removal, Grantee shall be likewise reimbursed.
 - d. The Grantee shall not place poles, conduits, or other fixtures of System above or below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Right-of-Way shall be so placed as to comply with all requirements of the City. Grantee shall use its best efforts to obtain the permission and consent of any utility company for the use of existing poles, conduits or other wire-holding structures located in City. Grantee shall utilize existing poles, conduits, or other wire-holding structures of existing utilities to the extent technically and economically feasible. City shall have no obligation to assist Grantee in obtaining the consent for use of existing facilities from any utility company.
 - e. Grantee shall give reasonable prior notice to any private property owners who will be directly affected or impacted by Grantee's work in Rights-of-Way.
 - f. The Grantee shall have the authority to trim any trees upon and overhanging the Rights-of-Way only to the extent necessary.
 - g. Upon request, Grantee shall furnish to the City the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities.
4. Undergrounding of Cable. Grantee shall place its System underground in areas of the City where all other utility lines are placed underground.
5. Drop Burial. Grantee shall bury all Drops in a reasonable time period which shall not exceed thirty (30) business days weather permitting. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than June 30th.
6. Erection, Removal and Joint Use of Poles. No poles, conduits, amplifier boxes, pedestal mounted terminal boxes, similar structures, or other wire-holding structures shall be erected or installed by the Grantee without prior approval of City with regard to location, height, type and other pertinent aspects. Such facilities shall be subject to applicable zoning requirements and shall be of such size and design and shall be so located as not to be unsightly or unsafe.
7. Safety Requirements.
- a. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
 - b. The Grantee shall install and maintain its System and other equipment and facilities in accordance with all federal, state and local laws and regulations, and the requirements of the National Electric Safety Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of City or of any public utility serving City.

- c. All System structures, lines, equipment and connections in, over, under and upon the Rights-of-Way, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of the City or any Person.
8. Emergency Use of Facilities. In the case of any emergency, the Grantee shall upon request of the City, make available its facilities to City during the period of emergency.

SECTION 4.

DESIGN PROVISIONS

1. System Upgrade; Minimum Channel Capacity. Grantee will continue to maintain and operate a System delivering at least 80 video programmed channels throughout the term of this Franchise.
2. Drops to Public Buildings. Grantee shall provide, free of charge, Installation of one (1) two-way capable cable Drop, one (1) cable outlet, and monthly Cable Service without charge to the City Hall and such public or educational institutions located which the City may designate.
3. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.
4. Operation and Maintenance of System. The Grantee shall render good quality Service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.
5. Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Code of Federal Regulations Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. Any failure to comply with the FCC technical standards, as may be determined below, shall be a violation of this Franchise.
6. Performance Review and System Testing.
 - a. The City may require special testing of the System. Demand for such special tests must be made on the basis of at least two complaints indicating an unresolved System performance difficulty. Alternatively, the City may test the System at any time upon prior written notice to Grantee.
 - b. Before ordering special tests, Grantee shall be afforded ten (10) days to correct problems or complaints upon which tests were ordered. If the performance difficulty resulting in noncompliance is not resolved, in City's reasonable determination, the tests shall be conducted at Grantee's expense by a qualified consultant selected by City.
7. FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall also be copied to the City.
8. Nonvoice Return Capability. Grantee is required to provide a System with the technical capability for two-way activation allowing return signals.
9. Lockout Device. Upon the request of a Subscriber, Grantee shall provide a device that permits the blocking of a selected channel.

SECTION 5.

SERVICES PROVISIONS

1. Regulation of Service Rates. The City may regulate rates for Services provided over the System to the extent allowed under federal or state law(s). A list of Grantee's current Subscriber rates and charges shall be maintained on file with the City and shall be available for public inspection. Grantee shall give the City and Subscribers written notice of any change in a rate or charge no less than thirty (30) days prior to the effective date of the change.
2. Video Programming. Grantee is authorized to make programming decisions, provided, however, that any change in the broad categories of video programming or other information services shall require the approval of the City consistent with 47 U.S.C. § 544(b), which approval shall not be unreasonably withheld, and, further provided that Grantee's programming decisions are subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536. Grantee may not eliminate, move or renumber a PEG access or community programming channel required hereunder without prior approval of the City. Grantee must notify the City and Subscribers in writing thirty (30) days prior to any channel additions, deletions, or realignments.
3. Service Complaints.
 - a. Responsiveness. Grantee shall maintain a local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week. During Normal Business Hours, trained representatives of Grantee shall be available to respond to Subscriber inquiries.
 - b. Telephone Answer Time and Busy Signals Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a quarterly basis. Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.
4. Installation, Outage and Service Calls. Under Normal Operating Conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis: (1) Standard Installations will be performed within seven (7) business days after an order has been placed; (2) Excluding conditions beyond the control of Grantee which prevent performance, Grantee will begin working on Service Interruptions promptly, and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee shall begin actions to correct other service problems the next business day after notification of the service problem; (3) The "appointment window" alternatives for Installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the convenience of the customer; (4) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment; (5) If a representative of Grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
5. Complaint Records Grantee shall prepare and maintain written records of all complaints received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee. Grantee shall provide the City with a written summary of such complaints and their resolution on a quarterly basis and in a form mutually agreeable to City and Grantee.
6. Billing and Subscriber Communications. Grantee must give Subscribers thirty (30) days advance

written notice with copy to City before any changes in rates, programming services, or channel positions. Bills must be clear, concise, and understandable and may be itemized consistent with law. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

7. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall have the right to market consistent with local ordinances and other applicable laws and regulations.
8. Refunds and Credits. In the event a Subscriber establishes or terminates Service and receives less than a full month's Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued within thirty (30) days. If Service is interrupted or discontinued for 24 or more consecutive hours, upon request, Subscribers shall be credited pro rata for such interruption beginning with the date of interruption. Credits for will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.
9. Additional Customer Service Requirements. The City expressly reserves authority to adopt additional or modified customer service requirements to address Subscriber concerns or complaints in accordance with law.

SECTION 6.

ACCESS CHANNEL(S) PROVISIONS

1. PEG Channel. The Grantee shall dedicate at least one (1), six (6) MHz channel on the System for public, education, and government access (hereinafter "PEG access") programming and use. The channel must be cablecast on the Basic Cable Service tier using the VHF spectrum. All Subscribers who receive some or all of the Services offered on the System shall receive reception on such channel at no extra charge. The System must be designed to permit cablecasting of live programming originated at City Hall on the PEG access channel.
2. PEG Access Responsibility. The City shall operate, administer, and manage and the PEG channel. The City shall be solely responsible for determining the use and programming of the PEG access channel.
3. Charges for Use. Channel time and playback of prerecorded programming on the PEG access channel must be provided without charge to the City.
4. Access Rules. The City may implement rules for use of any PEG access channels.
5. Access Equipment and Support. The Grantee shall provide a grant to the City in the amount of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) for capital costs associated with PEG access. The Grantee agrees that this amount will not be itemized on bills or otherwise passed-through to Subscribers. Within sixty (60) days of receipt of a written request from the City, the Grantee shall provide an additional grant of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) which the Grantee may itemize on bills and recover from Subscribers over a period of five (5) years. The Grantee's recovery shall be subject to audit and recomputation by the City. The PEG grants shall be in addition to any franchise fee obligation.
6. Access Connection. The City wishes to receive PEG access programming from the City of Melrose. Grantee shall permit the City to provide for interconnection of Grantee's System with the facilities of another cable or telecommunications provider obtain such programming.

SECTION 7.

OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may delegate authority to an advisory body or other delegatee to administer and enforce the Franchise and to monitor the performance of the Grantee pursuant to the Franchise. Grantee shall cooperate with any such delegatee of the City.
2. Franchise Fee.
 - a. Grantee shall pay to City a Franchise Fee in the annual amount of three percent (3%) of its annual Gross Revenues. The City may increase the Franchise Fee to five percent (5%) of annual Gross Revenues. Upon receipt of written notice of a change in the Franchise Fee amount, the Grantee shall implement the modified Franchise Fee amount within ninety (90) days.
 - b. Payments due under this provision shall be payable quarterly. The payment shall be made within sixty (60) days of the end of each of Grantee's fiscal quarters together with a brief report which shows the basis for the computation.
 - c. All amounts paid shall be subject to audit and recomputation by the City and acceptance of any payment shall not be construed, as an accord that the amount paid is in fact the correct amount.
3. Access to Records. Upon reasonable notice, at any time during Normal Business Hours, the City shall have the right to inspect and copy records maintained by Grantee which relate to System operations and Gross Revenues including specifically Grantee's accounting and financial records, subject to the privacy provisions of 27 U.S.C. § 521, et seq. Grantee shall provide copies of any such records upon request by City. In addition, Grantee shall prepare and furnish to the City, at the times and in the form prescribed, such other reports with respect to the operations, affairs, transactions or property, as they relate to the System, which City and Grantee may agree upon.

SECTION 8.

GENERAL FINANCIAL, INSURANCE AND SECURITY PROVISIONS

1. Letter of Credit or Performance Bond.
 - a. The Grantee shall furnish a letter of credit or bond ("Security") to the City, in favor of the City, in the amount of Ten Thousand Dollars (\$10,000.00) in a form and with such sureties as are reasonably acceptable to the City. This Security will be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance, regulation, or the Franchise, up to the full amount of the Security shall be recoverable for: any fine imposed by the City, and; such damages or loss suffered by the City including a reasonable allowance for attorneys' fees and costs, and; claims, liens and taxes due the City which arise by reason of the construction, operation, or maintenance of the System.
 - b. Grantee shall be provided written notice and thirty (30) days to cure any violation or liability. The time for Grantee to correct any violation or liability, shall be extended by City if the necessary action to correct such violation or liability is of such a nature or character as to require more than thirty (30) days within which to perform, provided Grantee provides written notice that it requires more than thirty (30) days to correct such violations or liability, commences the corrective action within the thirty (30) day period and thereafter uses reasonable diligence to correct the violation or liability.
 - c. The rights reserved to the City with respect to the Security shall not be deemed an exclusive remedy and are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the

Security shall affect any other right the City may have. The amount of the Security shall not in any way limit the extent of Grantee's liability to City.

2. Indemnification.

- a. The City and its officers, boards, committees, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System or as to any other action or event with respect to this Franchise.
- b. Grantee shall indemnify, defend, and hold harmless the City, its officers, boards, committees, elected officials, employees and agents from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise, administration, or enforcement of the Franchise including, but not limited to, the reimbursement to City of any insurance deductible paid by City.
- c. Nothing in this Franchise relieves a Person, except the City, from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.
- d. In order for City to assert its rights to be indemnified, defended and held harmless, City must:
 1. Reasonably notify Grantee in writing of any claim or legal proceeding which gives rise to such right; and
 2. Afford Grantee the opportunity to participate in disposition of any claim or proceeding; and
 3. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in disposition of such claim or proceeding subject to paragraph two (2) above.

5. Insurance.

- a. Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy in protection of the Grantee, and the City, its officers, boards, committees, elected officials, employees and agents for any and all damages and penalties which may arise as a result of this Franchise. The policy or policies shall name the City as an additional insured, and in their capacity as such, the City officers, boards, committees, elected officials, employees and agents.
- b. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for personal injury or death of any one Person, and Five Million Dollars (\$5,000,000.00) for personal injury or death in any one occurrence, One Million Dollars (\$1,000,000.00) for property damage to any one person and Five Million Dollars (\$5,000,000.00) for property damage resulting from any one act or occurrence.
- c. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to the City.

SECTION 9.

SALE, ABANDONMENT, AND TRANSFER OF FRANCHISE

1. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to the City. Grantee may not abandon the System or any portion thereof without compensating the City for damages resulting from the abandonment.
2. Removal After Abandonment, Termination or Forfeiture.
 - a. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City; provided, however, City may not require removal if Grantee is authorized to provide and is providing telecommunications services pursuant to state or federal law.
 - b. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written notice of the City demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City demand for removal is given, the City shall have the right to apply funds secured by the Performance Bond toward removal and/or declare all right, title, and interest to the System to be in the City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it pursuant to the provisions of 47 U.S.C. § 547.
3. Sale or Transfer of Franchise.
 - a. No sale, transfer, or “fundamental corporate change” as defined in Minn. Stat. § 238.083 of or in Grantee, shall take place until the parties to the sale, transfer, or corporate change file a written request with the City for its approval and such approval is granted by the City, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.
 - b. Any transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section. The term “controlling interest” as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
 - c. The City shall have such time as is permitted by applicable law in which to review a transfer request.
 - d. In no event shall a transfer pursuant to this Section be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations hereunder.
 - e. In the event of any proposed sale or transfer pursuant to this Section, the City shall have the option to purchase the System. The City shall be deemed to have waived its rights under this Section in the following circumstances:
 - i. If it does not indicate to Grantee in writing, within sixty (60) days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or
 - ii. It approves the assignment or sale of the Franchise as provided within this Section.

SECTION 10.

REVOCATION OF FRANCHISE

1. City’s Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined that Grantee has violated any material provision of this Franchise, has made intentional misrepresentations to City, or has practiced fraud or deceit upon the

City of a Subscriber. The City may revoke this Franchise immediately if Grantee is adjudged bankrupt.

2. Procedures.

- a. The City shall provide Grantee with written notice identifying the cause for revocation and its intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of notice in which to correct the violation.
- b. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subparagraph (a) above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- c. After such public hearing and release of written findings, the City may revoke the Franchise. Grantee may appeal such revocation to a court of competent jurisdiction.
- d. During the appeal period, Grantee may continue to operate the System pursuant to the terms and conditions of the Franchise, unless the term thereof sooner expires.

SECTION 11.

PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability. Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to nondiscrimination.
2. Subscriber Privacy.
 - a. Grantee shall comply with the subscriber privacy-related requirements of 47 U.S.C. § 551. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.
 - b. No lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.
 - c. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in Subparagraph (b) of this Section.

SECTION 12.

MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations.
2. Work Performed by Others. All obligations of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise, however, in no event shall any such subcontractor or other Person performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to the City of the name(s) and address(es) of any entity, other than Grantee, which performs pursuant to this Franchise.
3. Amendment of Franchise Ordinance. Grantee and the City may agree, from time to time, to amend this Franchise, however, nothing herein shall restrict the City's exercise of its police powers.
4. Application of Franchise Terms.
 - a. Grantee and the City shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
 - b. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall not be affected and this Franchise shall, in all other respects, continue to be effective provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. City may terminate this Franchise if invalidity or unenforceability of any provision substantially alters the agreement of the parties, in City's sole discretion.
 - a. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance.
 - b. All rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City at law or in equity and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.
5. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

SECTION 13.

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication: Effective Date. This Franchise shall be published in accordance with applicable law. The Effective Date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.
2. Acceptance.
 - a. Grantee shall accept this Franchise within sixty (60) of its enactment by the City, unless the

time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this Franchise shall be null and void.

- b. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.
- c. Grantee shall accept this Franchise by executing and delivering the same to the City.

Passed and adopted this 25th day of August, 2004.

ATTEST:

CITY OF FREEPORT

By: _____

Its: _____

By: _____

Its: _____

ACCEPTED: This Franchise is accepted and the undersigned agrees to be bound by its terms and conditions.

Dated: _____

US Cable of Coastal-Texas, L.P.

ORDINANCE NO. 1991-2

CITY OF Freeport, Stearns COUNTY, MINNESOTA

An ordinance granting Minnegasco, Inc., a Minnesota corporation, its successors and assigns, a nonexclusive franchise to construct, operate, repair and maintain facilities and equipment for the transportation, distribution, manufacture and sale of gas energy for public and private use and to use the public ground of the City of Freeport, Minnesota for such purposes; and prescribing certain terms and conditions thereof.

THE CITY COUNCIL OF Freeport ORDAINS:

SECTION A. DEFINITIONS. The following terms shall mean:

1.1. Company. Minnegasco, Inc., a Minnesota corporation, its successors and assigns.

1.2. Gas. Natural gas, manufactured gas, mixture of natural gas and manufactured gas or other forms of gas energy.

1.3. Municipality, Municipal Council, Municipal Clerk. These terms mean respectively, the City of Freeport, the Council of the City of Freeport and the Clerk of the City of Freeport.

1.4. Public Ground. All streets, alleys, public ways, utility easements and public grounds of the Municipality as to which it has the right to grant the use to the Company.

SECTION 2. FRANCHISE GENERALLY.

2.1. Grant of Franchise. There is hereby granted to the Company, for a period of 20 years, the right to import, manufacture, transport, distribute and sell gas for public and private use in the Municipality, and for these purposes to construct, operate, repair and maintain in, on, over, under and across the Public Ground of the Municipality, all facilities and equipment used in connection therewith, and to do all things which are necessary or customary in the accomplishment of these objectives, subject to zoning ordinances, other applicable ordinances, permit procedures, customary practices, and the provisions of this franchise.

2.2. Effective Date; Written Acceptance. This franchise shall be in force and effect from and after its passage and publication as required by law, and its acceptance by the Company in writing filed with the Municipal Clerk within 60 days after publication.

2.3. Nonexclusive Franchise. This is not an exclusive franchise.

2.4. Publication Expense. The expense of publication of this ordinance shall be paid by the Company.

2.5. Default. If the Company is in default in the performance of any material part of this franchise for more than 90 days after receiving written notice from the Municipality of such default, the Municipal Council may, by ordinance, terminate all rights granted hereunder to the Company. The notice of default shall be in writing and shall specify the provisions of this franchise under which the default is claimed and state the basis therefor. Such notice shall be served on the Company by personally delivering the notice to an officer thereof at its principal place of business in Minnesota.

If the Company is in default as to any part of this franchise, the Municipality may, after reasonable notice to the Company and the failure of the Company to cure the default within a reasonable time, take such action as may be reasonably necessary to abate the condition caused by the default, and the Company agrees to reimburse the Municipality for all its reasonable costs.

Nothing in this section shall bar the Company from challenging the Municipality's claim that a default has occurred. In the event of disagreement over the existence of a default, the burden of proving the default shall be on the Municipality.

SECTION 3. CONDITIONS OF USE.

3.1. Use of Public Ground. All utility facilities and equipment of the Company shall be located, constructed, installed and maintained so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of Public Ground, and shall be subject to those permit conditions the Municipality has adopted for all utilities.

3.2. Restoration. Upon completion of any work requiring the opening of any Public Ground, the Company shall restore the same, including paving and its foundations, to as good condition as formerly, insofar as reasonably possible. The restoration shall be completed as promptly as weather permits, but if the Company shall not promptly perform and complete the work, the Municipality shall have the right to do so at the expense of the Company; and the Company shall, upon demand, pay to the Municipality the reasonable cost of the work performed by the Municipality.

3.3. Relocation of Utility Facilities. The Company shall promptly, with due regard for seasonal working conditions, permanently relocate its facilities or equipment whenever the Municipality orders such relocation. If the relocation is a result of the proper exercise of the police power in grading, regrading, changing the location or shape of or otherwise improving any Public Ground or constructing or reconstructing any sewer or water system therein, the relocation shall be at the expense of the Company. If the relocation is not a result of the proper exercise of the police power, the relocation shall be at the expense of the Municipality. If such relocation is done without an agreement first being made as to who shall pay the relocation cost, such relocation of the facilities by the Company shall not be construed as a waiver of its right to be reimbursed for the relocation cost. If the Company claims that it should be reimbursed for such relocation costs, it shall notify the Municipality within thirty (30) days after receipt of such order. The Municipality shall give the Company reasonable notice of plans requiring such relocation.

Nothing contained in this subsection shall require the Company to remove and replace its mains or to cut and reconnect its service pipe running from the main to a customer's premises at its own expense where the removal and replacement or cutting and reconnecting is made for the purpose of a more expeditious operation for the construction or reconstruction of underground facilities; nor, shall anything contained herein relieve any person from liability arising out of the failure to exercise reasonable care to avoid damaging the Company's facilities while performing any work in any Public Ground.

3.4. Relocation When Public Ground Vacated. The vacation of any Public Ground shall not operate to deprive the Company of the right to operate and maintain its facilities therein. Unless ordered under Section 3.3, the Company need not relocate until the reasonable cost of relocating and the loss and expense of relocating resulting from such relocation are first paid to the Company. When the vacation is for the sole benefit of the Municipality in the furtherance of a public purpose, the Company shall relocate at its own expense.

3.5. Street Improvements, Paving or Resurfacing. The Municipality shall give the Company reasonable written notice of plans for street improvements where paving or resurfacing of a permanent nature is involved. The notice shall contain the nature and character of the improvements, the streets upon which the improvements are to be made, the extent of the improvements and the time when the Municipality will start the work, and, if more than one street is involved, the order in which this work is to proceed. The notice shall be given to the Company a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Company to make any additions, alterations or repairs to its facilities the Company deems necessary.

SECTION 4. INDEMNIFICATION.

The Company shall indemnify, keep and hold the Municipality, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, maintenance, repair, removal, or operation of the Company's property located in, on, over, under, or across the Public Ground of the Municipality, unless such injury or damage is the result of the negligence of the Municipality, its elected officials, employees, officers, or agents. The Municipality shall not be entitled to reimbursement for its costs incurred prior to notification to the Company of claims or actions and a reasonable opportunity for the Company to accept and undertake the defense.

If a claim or action shall be brought against the Municipality under circumstances where indemnification applies, the Company, at its sole cost and expense, shall defend the Municipality if written notice of the claim or action is promptly given to the Company within a period wherein the Company is not prejudiced by lack of such notice. The Company shall have complete control of such claim or action, but it may not settle without the consent of the Municipality, which shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Municipality, and the Company in defending any action on behalf of the Municipality shall be entitled to assert every defense or immunity that the Municipality could assert in its own behalf.

SECTION 5. ASSIGNMENT.

The Company, upon notice to the Municipality shall have the right and authority to assign all rights conferred upon it by this franchise to any person. The assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this franchise.

SECTION 6. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the Municipality shall not affect the validity of this franchise. Any governmental unit succeeding the Municipality shall, without the consent of the Company, automatically succeed to all of the rights and obligations of the Municipality provided in this franchise.

SECTION 7. SEVERABILITY.

If any portion of this franchise is found to be invalid for any reason whatsoever, the validity of the rest of this franchise shall not be affected.

SECTION 8. NOTICES.

Any notice required by this franchise shall be sufficient if, in any case of notice to the Company, it is delivered to Minnegasco, Inc., attention Vice President, Minnesota Operations Division, 201 South Seventh Street, Minneapolis, Minnesota 55402; and, in the case of the Municipality, it is delivered to:

Passed and approved March 26, 19 91.


Mayor of the City of Freeport, Minnesota

ATTEST:


City Clerk of Freeport, Minnesota

CITY OF FREEPORT, MINNESOTA

ORDINANCE NO. 106

AN ORDINANCE GRANTING A FRANCHISE TO
LEONARD COMMUNICATIONS, INC. AND ITS AFFILIATES
TO CONSTRUCT, OPERATE, AND MAINTAIN A
CABLE COMMUNICATIONS SYSTEM IN THE CITY.

- DEFINITION:
1. "Franchisor" and "City" is the City of Freeport, Minnesota.
 2. "Franchisee" is Leonard Communications, Inc. and its affiliates.
 3. "FCC" is the Federal Communications Commission of the United States.
 4. "Non-voice return communications" means the provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary non-voice communications electronics modules.
 5. The words "shall" and "must" are mandatory.
 6. The word "may" is permissive.
 7. The words "may not" are unconditionally prohibitive.
 8. "Act" is the Cable Communications Policy Act of 1984.

GRANT OF AUTHORITY

The City Council of Freeport authorizes that a cable communications franchise for the installation, operation and maintenance of a cable communications system within the city limits and surrounding area of Freeport is granted to the Franchisee provided, however, that the franchise shall be subject to the following terms and performance conditions:

1. Compliance With State and Federal Laws

The Franchisee and the franchising authority shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable communications as they become effective.

2. Franchise Terms

The franchise shall have an initial franchise term of 15 years effective from date of signing, and any renewal term if granted by the franchising authority, shall be 15 years.

3. Renewal of Franchise Terms

Renewal of the franchise between the Franchisor and the Franchisee shall be pursuant to the provisions of the Act.

4. Franchise Non-Exclusive

This franchise is non-exclusive.

5. Sale or Transfer of the Franchise, Sale or Transfer of Stock

Sale or transfer of this franchise or sale or transfer of stock so as to create a new controlling interest is prohibited except with the approval of the franchising authority, which approval shall not be unreasonably withheld.

6. Access to Financial Records

The franchising authority is granted the authority to audit the Franchisee's accounting and financial records upon reasonable notice. The Franchisee shall file annually with the franchising authority reports of gross basic subscriber revenues and other information as the franchising authority deems appropriate.

7. Franchise Administrator

Freeport City Council shall be responsible for the continuing administration of this franchise.

8. Liability Insurance

The Franchisee shall indemnify and hold harmless the franchising authority at all times during the term of the franchise and shall maintain throughout the term of the franchise liability insurance in the amount of five hundred thousand dollars (\$500,000), insuring both the franchising authority and the Franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise.

9. Liability for Injury to Franchisee's Facilities

Nothing in this franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the Franchisee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

10. Channel Capacity

The Franchisee shall construct a cable system with a channel capacity available for potential use of 54 channels.

11. Construction Schedule

Within 30 days of the granting of the franchise, the Franchisee shall apply for all necessary permits, licenses, certificates and authorizations; that energized trunk cable shall be extended substantially throughout the authorized area within 120 days after receipt of all necessary governmental permits, licenses, certificates and authorizations; and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time; the requirement of this provision may be waived by the franchising authority only upon occurrence of unforeseen events or acts of God.

12. Construction Standards

The Franchisee shall meet the following construction standards:

(1) All construction, including installation, shall conform to the National Electric Safety Code, the statutes of the State of Minnesota and ordinances of the City. The Franchisee shall provide the City with a map designating the location of cable television facilities and said map shall be available for public inspection.

(2) All transmission and distribution structures, lines and equipment erected by the Franchisee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways, and places and to cause minimum interference with the right and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(3) In case of any disturbance of pavement, sidewalk, driveway or any other surfacing, the Franchisee shall, at its own cost and expense, and in a manner approved by the City Engineer, replace and restore all such disturbed areas in as good a condition as before said work was commenced and shall maintain the restoration in an approved condition for a period of one (1) year thereafter.

(4) In the event that at any time during the period of this franchise the City shall lawfully elect to alter or change the grade of any street, alley or other public way, the Franchisee upon reasonable notice by the City, shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense in locations to be approved by the City Engineer.

(5) The Franchisee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fix-

tures, water hydrant or main and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk, and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said street, alleys and public ways: provided, however, that the Franchisee will place all wires, cables, fixtures and other equipment underground when telephone, telegraph or other electrical utilities services are so located in such area unless the Franchisee is specifically permitted to do otherwise where extreme hardship would result or where an underground installation is not workable. It is the intention of this section to require that the Franchisee hereunder use a portion of utility poles already erected for the development of the Franchisee's above ground distribution system, and the Franchisee shall not be permitted to erect its own poles, except where existing utility poles are inadequate to handle the additional load and where the placing of such additional poles is specifically authorized by the Franchisor or its duly authorized representatives. Locations are to be approved by the City Engineer.

(6) The Franchisee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or move its wires to permit the moving of buildings. The expense of same shall be paid by the person requesting same and the Franchisee shall have authority to require payment in advance and not less than forty-eight (48) hours advance notice.

(7) The Franchisee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Franchisee. All such trimming is to be done with the approval of and under the supervision of the City and at the expense of the Franchisee.

13. Indemnification

The Franchisee shall hold the City harmless from any and all claims and actions, litigations and from damage arising out of the passage of this Ordinance or arising out of the construction, erection, installation, maintenance or operation of its property operated by authority of this Ordinance within the corporate limits of the City or the negligence of the Franchisee's employees in the operation thereof. The Franchisee agrees to defend in the name of the City any claims made against the City arising out of the franchise. The Franchisee also agrees to hold the City harmless from any and all claims and actions arising from alleged infringements of copyrights.

14. Compliance With Applicable Codes

All wires, conduits, cable and other property and facilities of the Franchisee shall be located, constructed, installed, and maintained in compliance with applicable codes. The Franchisee shall keep

and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

15. Technical Standards

The rules of the FCC relating to cable communications systems contained in subpart K of part 76 of the FCC's rules and regulations relating to cable communications systems are incorporated herein by reference. The results of any tests required by the FCC shall be filed within 10 days of the conduct of such tests with the City.

16. Special Testing

In the event that special testing is required to determine the source of technical difficulties, the Franchisee is responsible for the costs of special testing.

17. Non-Voice Return Capability

The Franchisee shall construct and maintain a cable communications system having the technical capacity for non-voice return communications.

18. Subscriber Complaints

All complaints by the Franchisor, subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relating to the cable communications system shall be investigated and resolved by the Franchisee. The Franchisee shall have 24 hours to investigate and 24 hours to resolve any complaints.

19. Repairs and Complaints

The Franchisee shall provide to the subscribers a toll-free telephone number for the reception of subscriber complaints and the Franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. Costs included in making repairs and adjustments shall be borne by the Franchisee unless caused by the subscriber.

20. Termination

The Franchisor shall have the right to terminate and cancel the franchise and all rights and privileges of the franchise if the Franchisee violates any provision of the franchise ordinance, attempts to evade any of the provisions of the franchise ordinance or practices any fraud or deceit upon the Franchisor.

The Franchisor shall provide the Franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the Franchisee a minimum of thirty days after receipt of the notice in which to correct the violation.

The Franchisee shall be provided with an opportunity to be heard at a public hearing before the governing body of the City prior to the termination of the franchise. In the event that the City determines to terminate the franchise, the Franchisee has thirty days from the date of the conclusion of the public hearing at which the termination of the franchise is considered, within which to initiate a judicial proceeding. During the judicial proceeding, the franchise shall remain in full force and effect unless the term of the franchise ends sooner.

21. Removal of Cable Equipment upon Termination or Forfeiture

Upon termination or forfeiture of the franchise, the Franchisee shall remove, if the Franchisor so requests, all of its plants, structures, works, pipes, mains, conduits, cables, poles and wires and refill at its own expense any excavation that shall be made by it and shall leave said streets, alleys, public ways and places, in as good a condition as that prevailing prior to the Franchisee's removal of its equipment. In the event the Franchisee fails to do so, the Franchisee shall pay to the Franchisor as liquidated damages the cost of removal.

22. Franchise Fee

During the term of the franchise granted hereunder, the Franchisee shall pay to the City quarterly an amount equal to three percent (3%) of all basic service revenue derived by the Franchisee from within the City. The payments shall be made to the City within 30 days after the last day of each quarter. Basic service revenue shall include basic service charges, fees arising from the communications transmittal of information of any nature including fees for fire or other protection, but shall not include any other fees (for example: monies received for premium programming, installation charges, and charges and fees for reconnections, inspections, repairs or modification of any installation, nor state or federal taxes relating thereto). In return for the above-mentioned 3% basic franchise fee, the City will provide free tower space and space for a headend and related equipment.

23. Construction and Performance Bond

Prior to beginning construction, the Franchisee shall furnish a construction bond in the amount of fifty thousand dollars (\$50,000).

The City agrees to discontinue said construction bond upon such time as the construction of the cable system is completed and the City is satisfied that the construction of the system meets all standards according to this Ordinance. The Franchisee will then post a ten

thousand dollar (\$10,000) performance bond with the City to ensure its compliance with the provisions of the franchise.

24. Extensions of the System

The Franchisee is willing to construct its cable system throughout the City, provided however, that for those residents who live more than a mile from the downtown area, the Franchisee will extend its system if the prospective subscriber agrees to pay for the construction cost (excluding labor) of extending the system.

25. Cable Drop to City Hall and Access Channel

The Franchisee will provide one free cable drop to the City Hall for the reception of basic cable television services and the cable drop will have the technical capacity for two-way transmission. Further, after construction of the cable system, and upon written request by the City Council, the Franchisee will blank out the existing access channel which originates in St. Joseph and make that channel space available for the City's own access channel.

Passed by the Freeport City Council the 30th. day of August, 1988.

Attest:

City of Freeport

By:

John Harren
City Clerk

By:

Daniel P. Mays
Mayor

ACCEPTED AND AGREED TO:

Leonard Communications, Inc

Roger N. Leonard
VP Ops
President

Published in the Melrose Beacon the 26th. day of September, 1988.

and the 3rd. day of October, 1988.

John Harren
City Clerk

30th

August

CITY OF FREEPORT, STEARNS COUNTY, MINNESOTA

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS the City Council of the City of Freeport, Stearns County, Minnesota, on the 31st day of July 1979, passed and adopted Ordinance No. 78 entitled:

"AN ORDINANCE GRANTING PERMISSION TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE, REPAIR, AND MAINTAIN, IN THE CITY OF FREEPORT, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, POLE LINES, AND FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS, AND OTHERS, AND TRANSMITTING ELECTRIC ENERGY INTO AND THROUGH THE CITY, AND TO USE THE STREETS, ALLEYS, AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSES"

which Ordinance was duly published according to law on the 15th day of August 1979, in Melrose Beacon, a newspaper printed and published in the City of Melrose, Stearns County, Minnesota, and of general circulation in said City of Freeport, and County of Stearns, and State of Minnesota;

NOW THEREFORE, Northern States Power Company, a Minnesota corporation, for itself and its successors and assigns, does hereby accept all the terms and conditions of said Ordinance.

IN WITNESS WHEREOF, Northern States Power Company has caused these presents to be executed in its corporate name by its duly authorized persons and its corporate seal to be hereto affixed this 19th day of September 19 79.

Witness:

NORTHERN STATES POWER COMPANY

Alice M. Olson

By R.A. Chung
GENERAL MANAGER, DIVISION OPER.

Corinne G. Barry

And Harriet Rogge
ASSISTANT SECRETARY

CITY OF FREEPORT, STEARNS COUNTY, MINNESOTA

"AN ORDINANCE GRANTING PERMISSION TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE, REPAIR, AND MAINTAIN, IN THE CITY OF FREEPORT, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, POLE LINES, AND FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS, AND OTHERS, AND TRANSMITTING ELECTRIC ENERGY INTO AND THROUGH THE CITY, AND TO USE THE STREETS, ALLEYS, AND PUBLIC GROUNDS OF SAID CITY FOR SUCH PURPOSES"

Section 1. There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", during the period of 20 years from the date hereof, the right and privilege of constructing, operating, repairing, and maintaining, in, on, over, under, and across the streets, alleys, and public grounds of the City of Freeport, Stearns County, Minnesota, hereinafter referred to as "Municipality" an electric distribution system and electric transmission lines, including poles, pole lines, and fixtures and appurtenances, usually, conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said Municipality and the inhabitants thereof, and others, and for the purpose of transmitting into and through said Municipality such electric energy, provided that such electric distribution system and transmission lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along and over said streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair and maintenance of such poles, pole lines, and fixtures and appurtenances, shall be subject to such reasonable regulation as may be imposed by the Municipal Council.

Section 2. The rates to be charged by Company for electric service in the Municipality shall be subject to the jurisdiction of the Public Service Commission of this State. Company shall provide reasonably efficient and adequate service to members of the public within the Municipality who apply for such service in accordance with the rules and regulations of Company. Electric service provided by Company to its customers in the Municipality is subject to interruption and disturbance due to (a) conditions beyond its control; (b) necessary maintenance and operation of its system; (c) effect of operations of any interconnecting electric systems; (d) curtailment of electric service as may be prudent to maintain service to priority loads or to maintain the operating stability of its system; and (e) temporary interruptions or disturbance of service. Neither Company nor Municipality shall be liable for any damage or loss for interruption or disturbance of service due to such causes.

Section 3. There is also granted to Company, during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said Municipality interfering with the proper construction, operation, repair, and maintenance of any poles, pole lines, and fixtures and appurtenances, installed in pursuance of the authority hereby granted, provided that Company shall save said Municipality harmless from any liability in the premises.

Section 4. The vacation of any street, alley, public way or ground, after the installation of electric facilities, shall not operate to deprive the Company of the right to operate and maintain such electrical facilities until the reasonable costs of relocating the same and the loss and expense resulting from such relocation are first paid to the Company, except where the vacation is for the primary benefit of the Municipality in the furtherance of a public improvement.

Section 5. Nothing contained in this Ordinance shall be construed as giving to Company any exclusive privileges in, on, over, under, or across the streets, alleys, or public grounds of said Municipality.

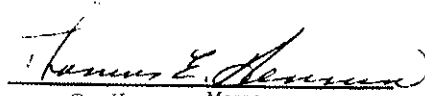
Section 6. Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Ordinance.

Section 7. Company shall, if it accepts this Ordinance and the rights hereby granted, file a written acceptance of the rights hereby granted with the Municipality within 90 days after passage of this Ordinance by the Municipality.

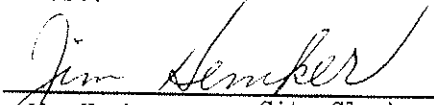
Section 8. This Ordinance shall be in full force and effect from and after its passage, any publication required by law, and acceptance by Company.

Section 9. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Passed and approved: July 31, 19 79


Thomas E. Hennen Mayor

Attest:


Jim Hemker City Clerk